United States Court of Appeals

for the Second Circuit

APPENDIX

76-7426

In The

United States Court of Appeals

For The Second Circuit

RAYMOND G. LASKY, NICHOLS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, AND THE PRE-TRIAL DETAINEES,

Plaintiffs-Appellees,

-against-

SHERIFF LAWRENCE QUINLAN,

Defendant-Appellant,

-and-

SERGEANT FARMER, JAILERS BOYCE, A. SMITH, CALLUIAN, THE COUNTY OF DUTCHESS, EDWARD C. SCHUELER, Individually And As the County Executive Of Dutchess County, STANLEY T. WARYAS, LOUIS FOERSCHLER, PAUL E. PFUETZE, JEAN C. MURPHY, LOUIS A. DEBIASE, ROBERT ROBAR, JOSEPH V. POILLUCCI, JOHN ARMSTRONG, G. DONALD FINN, JUDITH BLEAKLEY, ROCCO T. DIGILIO, MARCO CAVIGLIA, ARNOLD L. BARATTA, ROSALIE HOBAS, JACK I. DEXTER, CHARLES MILLER, GLENN E. WARREN, CLIFFORD S. McMULLEN, DOUGLAS A. McHOUL, ROBERT HORTON, DANIEL J. HANNIGAN, JOSEPH J. LOMBARDI, GORDON WRIGHT, KENNETH UTTER, RICHARD H. WYMAN, MARGARET G. FETTES, RALPH VINCHIARELLO, WILLIAM E. BARTLETT, CLYDE R. CHASE, LUCILLE P. PATTISON, ASHEIGH M. LOSEE AND CALVIN R. SMITH, Each Individually And As Members of The Dutchess County Legislature,

Defendants.

UNITED STATES COURT OF APPEALS
FILED
MAY 18 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

B

P/S

APPENDIX FOR APPELLANT

PETER R. KEHOE
Attorney for Defendant-Appellant
37 First Street
Troy, New York 12180
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PAGINATION AS IN ORIGINAL COPY

TABLE OF CONTENTS

	Page
Docket Entries	1a
Complaint (Filed April 16, 1973)	6a
Notice of Motion for Order Granting a Civil Rights Petition Sworn to February 13, 1973	15a
Motion to Proceed in Forma Pauperis . . .	17a
Notice of Motion for Preference Dated February 13, 1973	19a
Affidavit of Plaintiffs in Support of Motion for Preference Sworn to February 13, 1973	20a
Summons (Dated April 16, 1973)	26a
Answer	26a-1
Stipulation Regarding Implementation of Provisions Dated July 25, 1973	27a
Letter from Jack P. Levin to Denis J. McClure Dated September 14, 1973 Re: Stipulation of Implementation with Rules and Regulations Regarding the Operation of the Dutchess County Jail Annexed .	35a
Letter from Lawrence M. Quinlan to Hon. Frank S. McCullough Dated September 25, 1973 with Correspondence Annexed . .	38a
Letter from John M. Kennedy to Lawrence M. Quinlan Dated February 26, 1974 with Jack P. Levin Letter of February 22, 1974 Annexed	45a

Contents

	Page
Letter from Lawrence M. Quinlan to Hon. William H. Bartlett	48a
Minutes of Joint Meeting of Public Safety Committee and Planning and Capital Projects Committee on March 13, 1974 .	49a
Letter from Lawrence M. Quinlan to Hon. William H. Bartlett Dated May 28, 1974 .	53a
Letter from Lawrence M. Quinlan to Hon. Clayton Clearwater Dated August 9, 1974 .	55a
Letter from Lawrence M. Quinlan Dated May 16, 1974	57a
Letter from Lawrence M. Quinlan to James A. Callahan Dated June 4, 1974	60a
Letter from Lawrence M. Quinlan to Hon. William Bartlett Dated June 12, 1974 . . .	61a
Notice of Motion for Contempt Dated December 8, 1975	62a
Affidavit of Jack P. Levin in Support of Motion Sworn to December 8, 1975	64a
Exhibits Annexed to Foregoing Affidavit:	
A — Stipulation (Omitted here but printed at p. 27a)	79a
B — Opinion of Gurfein J. Dated July 30, 1973 Approving Stipulation	80a

Contents

	Page
C — Minimum Standards and Regulations for Management of County Jails and Penitentiaries	83a
D — Current Version of Inmates Rules and Regulations	100a
Opinion of Werker, U.S.D.J. on June 21, 1976	110a
Order of Werker, U.S.D.J. on July 7, 1976	130a
Affidavit of Jack P. Levin Regarding Plaintiffs' Attorney Fees and Expenses	133a
Answering Affidavit of Lawrence M. Quinlan	145a
Transcript of Hearing Before Hon. Henry F. Werker Dated September 8, 1976	152a
Memorandum Decision of Hon. Henry F. Werker Dated October 8, 1976	195a
Order to Show Cause (Dated October 19, 1976)	198a
Transcript of Hearing Before Hon. Henry F. Werker Dated October 28, 1976	200a
Letter from Jack P. Levin to Peter L. Maroulis Dated December 20, 1976	288a
Judgment of Werker, U.S.D.J. Entered December 13, 1976	289a

Contents

Page

Order of Werker, U.S.D.J. Dated December 22, 1976 . . . . . 290a

WITNESSES

Joel Berger:
Direct 154a
Cross 158a

Whitney North Seymour, Jr.:
Direct 163a

Dr. Stephen Redmond:
Direct 173a, 202a
Cross 211a

James A. Giardina:
Direct 215a

BEST COPY AVAILABLE

DOCKET ENTRIES
(pp. 1a-5a)

CIVIL DOCKET

UNITED STATES DISTRICT COURT

Jury demand date:

TITLE OF CASE

ATTORNEYS

Jack P. Levin, Esq. (Co-Counsel)
Frank S. Hoseley, Esq. (
LEVIN - 1 Chase Manhatten Plaza
10005 -- (A. 3400)

1/21

For defendant:
County Atty County of Dutchess
Poughkeepsie, N.Y.

Peter L. Maroulis, Esq.
104 Hooker Ave.
Poughkeepsie, NY 12601

STATISTICAL RECORD		DATE	NAME OR RECEIPT NO.	REC.	DATE
J.S. 5 mailed X	CIVIL DOCKET				
J.S. 6 mailed					
Basis of Action:	Docket fee				
Action arose at:	Witness fees				
	Depositions				

UNITED STATES COURT OF APPEALS
FILED
MAR 15 1977
A. DANIEL FUSARO, CLERK
SECOND CIRCUIT

2a JUDGE TYKER

Date	PROCEEDINGS	Date of Judgment
Apr 26-73	Filed Complaint. Issued Summons.	
Apr 26-73	Filed order permitting the pltff to proceed in forma pauperis without prepayment of fees. Edelstein, J.	
May 17,73	Filed Summons with Marshal's return: Served Jailer Calluian by F.J. Calleman, Asst. Jailar on 5/1/73	
May 17,73	Filed Summons with Marshal's Return. Served:	
May 17,73	Filed Summons with Marshal's Returns. Served: Jailar Calluian, Dutchess County Jailer by F.J. Calleman Asst. Jailar on 5/11/73. A. Smith, Jailar Dutchess County Jail personally on 5/10/73. Boice, Jailer Dutchess County personally on 5/8/73 Sergeant Farmer, Dutchess County Jail personally on 5/8/73. Sheriff Lawrence Quinlan by personal service on 5/8/73.	
Jun22-73	Filed defts Sheriff Lawrence Quinlin, Sergent Farmer, Jailers Boice, A. Sm Calluian, et al notice of motion to enlarge time to answer.	
Jun22-73	Filed ORDER that the time for defts to answer the complaint is extended to 6-25-73. GURFEIN, J. (mn)	
Jun22-73	Filed ANSWER of defts to the complaint.	
Jun 22,73	Filed ORDER that Jack P. Levin, Esq and Frank S. Massley, Esq. are apptd co-counsel to represent pltffs in case. All further matters relating to this litigation shall be channeled through counsel. Gurfein, J.	CA
Jun 26-73	Filed Petition for Writ of Habeas Corpus directed to Superintendent of Clinto Correctional Facility in Dannemora, N.Y. for pltff. R.G. Lasky-Issued Writ ret. 6-29-73.	
Jun 27-73	Filed Petition for Writ of Habeas Corpus directed to Sheriff, Dutchess County Jail in Poughkeepsie N.Y. for pltff. N. Zachary-Issued Writ ret. 6-29-73.	
Jun 27-73	Filed Petition for Writ of Habeas Corpus directed to Sheriff, Dutchess County Jail in Poughkeepsie N.Y. for pltff. H. Howard-Issued Writ ret. 6-29-73.	
Jun 28-73	Filed affdvt of service by certified mail to pltff. R. Lasky.	
Jul 2-73	Filed affdvt of service of a copy of the writ of habeas on pltff. R. Lasky.	
Jul 2-73	Filed affdvt of service of a copy of the writ of habeas on pltff. N. Zachary.	
Jul 2-73	Filed affdvt of service of a copy of the writ of habeas on pltff. H. Howard.	
Jul 2-73	Filed affdvt of service of a copy of the writ of habeas pltff. R. Lasky. on Paul Curran U.S. Atty.	
Jul 2-73	Filed affdvt of service of a copy of the writ of habeas corpus for N. Zachary on Thomas Ferrandina U.S. Marshal.	
Jul 2-73	Filed affdvt of service of a copy of the writ of habeas corpus for H. Howard on Thomas Ferrandina, U.S. Marshal.	
Jul 2-73	Evidentiary hearing begun	
Jul 3-73	Evidentiary hearing continued	
Jul 5-73	Evidentiary hearing continued	
Jul 6-73	Evidentiary hearing continued and concluded - D.R. -- Gurfein, J.	
Jul 30-73	Filed pltf's. pre hearing memorandum.	
Jul 30-73	Filed OPINION # 39726--In view of stip. attached, there is no need to declare this a class action; Action is dismissed upon the stip. subject to reopening or the institution contempt proceedings in the event of a wilful failure to complay with Order., etc Gurfein, J. m/n	
Aug 23-73	Filed Writ of H/C -- writ satisfied 7-6-73 (re Harold Howard)	
Aug 23-73	Filed Writ of H/C -- writ satisfied 7-2-73 (re Raymond G. Lasky)	
Aug 23-73	Filed plaintiffs' pre-hearing memorandum	
Aug 23-73	Filed Writ of H/C -- writ satisfied 7-6-73 (re Nicholas [illegible])	
Aug 15-73	Filed transcript of record of proceedings dated July 3, 1973	

Raymond G. Lasky, et. al. vs. Sheriff Lawrence Quinlin, et. al.

3a

73 CIV 1666 page 3 JUDGE WERKER

Civil Docket Continuation

DATE	PROCEEDINGS	Date Order Judgment
May 6-74	Filed defend nts answers to interrog. (Answers of Defts. Quinlin)	
ay- 6-74	Filed defts. Farmer's answers to interrog.	
ay- 6-74	Filed defts. Howe's answers to interrog.	
ay- 6-74	Filed defts. Walsh's answers to interrog.	
ay- 6-74	Filed defts. Quinn's answers to interrog.	
ay- 6-74	Filed plaintiffs' interrogatories respecting compliance with Court order.	
-07-75	Filed notice re reassignment to Judge Werker.m/n	
03-26-75	Filed plt's notice to take depositions of the NY State Commission of Corr. on 4-23-75	
4-01-75	Filed plaintiff's first suppl. interrog. respecting compliance with order.	
4-21-75	Filed defts. Farmer's answers to first suppl. interrog.	
04-21-75	Filed defts. Quinlan's answers to first suppl. interrog.	
05-13-75	Filed order directing Clerk to reopen proceedings and place same on active calendar of Judge Werker. --- Werker, J.	
05-13-75	Filed stip. and order that the depositions of the New York State Commission of Corr. is adj. to 6-9-75 -- Werker, J.	
12-08-75	Filed pltfs memorandum of law in support of motion for contempt.	
12-08-75	Filed pltfs affdvt, and notice of motion adjudging defts. Quinlin in contempt, etc. - ret. 2-2-76.	
12-19-75	Filed pltfs affdvt. and notice of motion for a Special Session of the District Court - ret. 1-5-76	
12-19-75	Filed pltfs memorandum in support of above motion.	
01-12-76	Filed motion of James M. Fedorenak, acting counsel for the County of Dutchess, for leave to withdraw as County Attorney on behalf of the defendants and retaining Peter L. Marouis as their counsel. So ordered. -- Werker, J.	
01-13-76	Filed OPINION #43711...Justice will best be served by holding a special session of this court at the Bankruptcy Court in the City of Poughkeepsie on 2-2-76 at 2 PM in the P.M., etc. -- Werker, J. m/n	
01-22-76	Filed pltfs notice to take depositions of N.Y. State Comm. of Corr. on 1-26-76 and request to produce.	
01-26-76	Filed order that the US Marshal is authorized and directed to pay all witness fees for plaintiffs, who are proceeding in form pauperis; ordered that pltfs may serve subp. without tendering witnesses fees, etc. - Frankel, J.	
01-30-76	Filed plff's petition for writ of Habeas Corpus Ad Testificandum directed to Sheriff(Quinlan) Dutchess County Jail. -- 18 Writs issued - Returnable 2-2-76	
02-10-76	Filed AMENDMENT TO MEMORANDUM #43711 filed on 1-13-76 (dated 1-8-76) correcting the spelling of the word "accommodations" - So Ordered. Werker, J. m/n	
02-03-76	HEARING on contempt for non-compliance began before Werker, J.	
02-04-76	Hearing continued	
02-05-76	Hearing continued	
02-06-76	Hearing continued and concluded. To be submitted within 30 days proposed Findings and Conclusions of Law. Decision Reserved-- Werker, J.	
[illegible]	[illegible]	
[illegible]	[illegible]	
[illegible]	[illegible]	

DATE	PROCEEDINGS	Judge's Initials
[illegible]	Filed [illegible] to produce Constance [illegible].	
9-2-75	Filed [illegible] to produce Laurie Smith.	
9-23-75	Filed [illegible] to produce Candace Samuels.	
[illegible]	Filed [illegible] to produce Dolores Fisher	
8-22-75	Filed [illegible] to produce Bruce Vail	
8-22-75	Filed [illegible] to produce Priscilla Wilcox.	
8-22-75	Filed [illegible] to produce Robert Brown.	
8-22-75	Filed [illegible] to produce Charlene Mclain.	
8-07-75	Filed [illegible]	
[illegible]	Filed [illegible]	

[illegible] copy served on [illegible] Quinlan on [illegible] 9-24-75.

[illegible]...the incarceration of the [illegible] at this time [illegible] Book[illegible] Inc. I find [illegible] Sheriff Lawrence Quinlan in the amount of $[illegible]; I will also assess against Sheriff the pltfs' attorneys fees and expenses with respect to that proceeding. I direct the sheriff to comply with the terms of the stipulation within 30 days, etc. I will appoint the Director of the Dutchess County Board of Monitors as a monitor in this matter. Monthly examinations to be made and reported to the Court. With respect to the other defendants Sergeant Farmer, the court finds that the [illegible] no effective control over what transpires in the Dutchess County Jail. Therefore the Court finds no contempt of the orders with respect to them. Within 3 weeks of the filing of this opinion, the plaintiffs shall submit to the court a petition supporting affidavits in support of their claim for attorneys fees and costs. Submit order. - Werker, J. m/n

[illegible] Filed order that within 10 days of the entry of this order the sheriff will pay into Court a fee in the amount of $[illegible]. Sheriff will pay the attorneys fees and expenses of plaintiffs' counsel with respect to the contempt proceedings in the amount to be fixed by the Court etc. Orders that Dr. Stephen J. Belmont is appointed to act as [illegible] to the court, etc. Ordered that in the event that the Sheriff persists in failing to comply with the orders of this court, the Court upon due notice will hold a hearing to determine whether the Dutchess County Jail should be closed. Ordered with respect to defendants Sergeant Farmer and Jailers Boyce, A. Smith and Calluian, that there is no contempt. [illegible] m/n

[illegible] Filed [illegible] of [illegible] Levin [illegible] and exhibits.

[illegible]

[illegible]

[illegible]

9-24-75 Filed by deft. Quinlan motion to extend time for transmission of record.

9-24-75 Filed memo endorsed on above: The time for transmission of the record on appeal is hereby ext. to 10-18-75. So ordered. - Werker, J. m/n

10-15-75 Filed notice that the record on appeal has been certified and transmitted to the USCA

10-18-75 Filed pltf's affdvt. and notice of motion to adjudge Lawrence W. Quinlin in contempt. Ret. 10-28-75.

10-21-75 Filed pltf's affdvt. in support of pltfs application for an ex parte order

10-21-75 Filed ORDER that Jack P. Levin, and Dr. S.H. Belmont are authorized to enter and inspect the Dutchess Cty. Jail at any time on 10-3 and 10-7-75--Werker, J.

DATE	PROCEEDINGS	Date Judge
10-21-76	Filed pltfs affidvt. and order to show cause that the parties show cause in Rm.312 on 10-28-76 at 9:30 A.M. why an order should not be entered regarding the complaint. Ordered that personal service to be effected by 10-28-76 at 9:00 A.M. -- Parker, J.	
10/14/76	Filed stipulation designating exhibits to the USCA	
10-28-76	hearing began and concluded. Motion for further contempt petition reserved. Deft's to ads Dutchess County to complaint is granted. Werker, J.	
11-3-76	Filed notice that the record on appeal has been certified and transmitted to the USCA	
11-12-76	Filed MEMORANDUM IN OPPOSITION to Pltf's motion filed on 10-22-76 - corrections, pages 5, 7, 15, 17 and 18 as indicated. -- Werker, J.	
11-10-76	Filed true copy of USCA stip. and order withdrawing appeal.	
11-[illegible]-76	Filed transcript of record of proceedings dated 10-28-76	
11-[illegible]-76	Filed stipulation designating exhibits to the USCA	
11-[illegible]-76	Filed memorandum-decision that fees and disbursements in the sum of $30,000 and disbursements in the sum of $[illegible].42 or $44,573.48 in the aggregate for the period 08-01-73 to 07-[illegible]-76 are allowed to Jack D. Levin, Esq., Attorney for plaintiffs. Judgment reads: Lawrence Quinlin may be entered for that amount and execution issue therefor- Werker, J. m/n	
12-[illegible]-76	Filed memorandum-decision that it is not the Court's function to approve or disapprove the amount of expenses to be paid to bring deft. into compliance with the Court's order. That is the function of the County Legislature, etc. For the same reason the request of counsel for the Sheriff for additional time to submit further evidence of compliance is denied. So ordered, Werker, J. m/n	
12-10-76	Filed Judgment (re civil contempt) that Jack D. Levin, Esq. recover from deft. Sheriff Lawrence Quinlin attorneys fees in the amount of $30,000 and disbursements in the amount of $[illegible].48 or $44,573.48 in the aggregate for the period Aug-1-73 to Jul-19-76, -- Werker, J. Judgment entered $77,100 ----- CLERK 12-13-76 m/n	
12-27-76	Filed order that John J. Lissner is hereby appointed Warden Admin. of the Dutchess County Jail, Poughkeepsie, and serve in said position from the 1st day of Jan. 77 until further order of this Court; said Warden Administrator shall be accountable and report to this Court as indicated herein, etc. Ordered that County Jail shall complete [illegible] renovation at the jail by 03-01-77; that the Court will review all reports of architects, etc. -- Werker, J. m/n	
[illegible]-27	Filed memo endorsed on pltfs motion filed on 10-18-76: On the written request of counsel for the plaintiffs, dtd. 12-27-76, this motion is withdrawn. -- Werker, J. m/n	
01-12-77	Filed deft. Quinlans notice of appeal to the USCA for the 2nd Circuit from the Dec.[illegible]- judgment entered on 12-13-76 - copies mailed.	
01-12-77	Filed deft. Quinlans renewed notice of appeal to the USCA for the 2nd Circuit from order of 07-09-76. -- copies mailed.	
1-[illegible]-77	Filed notice of appeal by The County of Dutchess, Edward C. Stiebler, Chairman of the Board of Supervisors from order of 12-29-76 m/n Werker	

A TRUE COPY
RAYMOND F. BURGHARDT, Clerk

By _____
Deputy Clerk

6a

COMPLAINT
(Filed April 16, 1973)
(pp.6a-14a)

JUDGE GURFEIN

73 CIV. 1666

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

FILED
U.S. DISTRICT COURT
S.D. OF N.Y.
APR 16 11 00 AM '73

CLASS ACTION, RAYMOND G. LASKY; NICHOLS ZACHARY; HAROLD HOWARD; CLAYTON FISHBURN; RICHARD HARLAND, and PRE-TRIAL DETAINEES,

Plaintiffs,

-against-

SHERIFF LAWERNCE QUINLIN, SERGEANT FARMMER; JAILERS BOICE; A.SMITH, CALLIHAN, et al.,

Defendants.

COMPLAINT
CLASS ACTION

STATE OF NEW YORK
COUNTY OF DUTCHESS } SS.:

1. This is an action on behalf of the named plaintiffs' and on behalf of all persons presently and future detainees confined as inmates in the Dutchess County Jail, pre-trial-detention unit for injunctive and declaratory relief to redress the deprivation, by official of the Dutchess County Jail and defendants, et al., under color of State law, of their rights, privileges and immunities secured by the Constitution of the United States, and in particular the First, Fourth, Fifth, Sixth, Eight and Fourteenth Amendments thereto.

2. This action arises under the Constitution of the United States, and in particular the First, Fourth, Fifth, Sixth, Eight and Fourteenth Amendments thereto, and under 28 U.S.C. § 2201 and 42 U.S.C. § 1983. The jurisdiction of this Court is invoked

under 28 U.S.C. §§ 1331, 1343, 2201 and 42 U.S.C. § 1983.

3 there is an actual controversy between the parties and the sum of ten thousand ($10,000) dollars, exclusive of interest and costs.

4 Plaintiff Lasky is a State Prisoner, ordered returned to Dutchess County Court and remanded to the Dutchess County Jail, until returned to Clinton Correctional Facility, Dannemora, New York, whereas the Dutchess County Court (Judice, C.J.) issued a writ of habeas corpus after receiving the opinion from the United States Circuit Court of Appeal, Second Circuit, No. 211- September Term, 1972 (Argued October 18, 1972, Decided January 19, 1973) docket No. 71-1841 - before a panel consisting of the Honorable Circuit Judges, Waterman, Smith and ~~Kaufman~~ Kaufman, to wit: " Reversed and relef granted unless, without using the Arkansas conviction for enhancement of sentence, petitioner is resentenced within sixty days following the date this mandate is filed with the District Court, otherwise plaintiff Lasky was serving a term of 15 years to life, rendered in the above named County Court, and has written this claim after all plaintiffs agreed and feel that their claims hereinbelow are established and all would be best served by filing a Class Action, plaintiffs' seek no monetary gains, if any is awarded it shall, establish a project to aid pre-trial detainees in the Dutchess County Jail, to secure their rights, Federal and State.

5, Plaintiffs', Nichols Zachary, Harold Howard, Clayton Fishburn, Richard Harland and all Pre-Trial-Detainees are presently confined in the Dutchess County Jail, located in Poughkeepsie, New York.

6, Plaintiffs bring this action on behalf of themselves and as a class action under Rule 23 of the Federal Rules of Civil Procedure, on behalf of and as representatives of all persons presently and future pre-trial-detainees, confined as inmates in the Dutchess County Jail of the Dutchess County, Poughkeepsie, New York. The class of such persons is so numerous that joinder of all members is impracticable. There are questions of law and fact presented which are common to the class, and these questions predominate over any questions affecting individual plaintiffs. The claims of the representative parties are typical of the claims of the class. The representative parties will fairly and adequately protect the interest of the class. This class action is superior to other available methods for fair and efficient adjudication of the controversy which is the subject of this action.

7, The defendants are, as follows:

(a) Defendant Sheriff Lawerwce Quinlin is the Sheriff of Dutchess County and is responsible for the approval and execution of all laws of the County of Dutchess and a Sheriff is responsible for the action taken by his agents et al.

(b) Defendants', Farmer, Boree, Smith, Calluian, et al., are agents and carry out the rules and laws of the County Jail for pre-trial-Detention and are agents entrusted with the care and control of and has the supervision and management thereof.

8, The County Laws of Dutchess County: governing the conduct of inmates and guards if promulgated, are not distribut

9. On information and belief, defendants Quinlin, Fummer, Bryce, Smith and Callurian, et al., have acted are now acting in disregard of any provision of the Law governing the County Jail (Dutchess County), the laws of New York and in violation of the rights of plaintiffs and the class they represent under the Constitution of the United States, in that, among other things they and offices and employees acting under their supervision, control and direction have wrongfully and without cause:

(a) denied communication with attorneys, in the attorney-client relation in violation of the Fifth, Sixth and Fourteenth Amendments;

(b) denied uncensured mail to lawyers, Courts, State and Government officials, News Media, and Family and Friends all in violation of First, Fourth, Fifth, Sixth, Eight and Fourteenth Amendments;

(c) denied full freedom to communicate by visitation telephone or in writing with the person whom desire to receive expert advise during the pendency of pre-trial-detention in violation of the First, Fourth, Fifth, Sixth, Eight and Fourteenth Amendment;

(d) denied communication with and the opportunity to prepare, serve, file whatever pleading or action, documents necessary to commence proceeding affecting ones personal liberty, to asser and sustain a defense thereto, and thereby, a right to a speedy and fair trial are denied all in violation of the First, Fourth, Fifth Eight and Fourteenth Amendments;

(e) denied access to telephones when arrested and during pre-trial-detention, knowingly known to all agents and arresters that no one is allowed to call personally or talk to anyone over the telephone all a violation of the First, Fourth, Fifth, Sixth and Fourteenth Amendments;

(f) denied the right to have and receive or purchase, law books, legal paper, pens, typewriter and other material deemed necessary to prepare and petition the Courts concerning pre-trial-detention and personal liberty in violation of the First, Fourth, Fifth, Sixth and Fourteenth Amendments.

(g) denied clothing, food, tobacco, magazines, political literature, religious material and other published material from home or on visits or purchase, in violation of the First and Fourteenth Amendments;

(h) denied religious services, none allowed to pre-trial-detainees nor visits from priest, ministers or Rabbi, etc., all in violation of the First Amendment

(i) unreasonable interfered with visits to inmates in violation of the First and Fourteenth Amendments;

(j) unreasonable seized the personal belongings and other property of inmates in violation of the Fourth and Fourteenth Amendments;

(k) subjected inmates to degrading and inhuman treatment, no recreation by confinment in bull-pen and cells twenty-four a day, all in violation of the Eight and Fourteenth

Amendment;

11a

(l) confined inmates to their cells and bull-pen which has no lights, lights are from outside bull-pen and enclosed in obscured glass, making for semi-lighting at all times in violation of the Eight and Fourteenth Amendments;

(m) confined inmates to their cells - bullpen ~~twenty four~~ hours without leaving same for any exercise all in violation of the Eight and Fourteenth Amendments;

(n.) Plaintiffs as a result of the acts alleged in paragraph 9 (~~xxxxx~~) a-m above were and are in violation of the rights of plaintiffs' and the class they represent under the Constitution of the United States, and in particular the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments thereto.

QUESTIONS PRESENTED AS A BASIC FOR THIS PETITION
FOR A SECOND CAUSE OF ACTION

10, Plaintiff Lasky repeats and realleges the contents of the above paragraphs 1-9, and is the plaintiff referred to in paragraph 4 above.

(a) plaintiff Lasky upon being transferred to the Dutchess County Jail, (see paragraph 4), had all his legal papers and book seized, all in violation of the First, Fourth, Fifth, Sixth, Eight and Fourteenth Amendments;

(b) plaintiff Lasky after being refused his legal work remained silent and was then threatened with a beating by

Jailor Callahan and Guard Smith, (e.g., "you don't answer the questions, you can get your ass kicked in"), all in violation of the Fifth, Eighth and Fourteenth Amendments;

(c) plaintiff Lasky was then placed in a cell, unsanitary and restricted as to be physically and psychologically debilitating, the conditions were and remained for 1½ days, toilet and sink did not work and was full of human waste, food was placed on the floor, to which Lasky refused and did not eat for same period all in violation of the Eighth and Fourteenth Amendments;

(d) plaintiff Lasky appeared in the Dutchess County Court (JUDICE, C.J.,) and informed the Court as to his movements from his being picked up at Clinton Correctional Facility by the Sheriff department and returned to the Dutchess County Jail, that his Civil and Constitutional Rights are being violated and was informed by the Court (JUDICE, C.J.,) that he had no authority to do anything about the County Jail that was the Sheriffs job, and that I should take it up with someone at the Jail. all in violation of the First, Fourteenth Amendments;

(e) plaintiff Lasky taken before Sergeant Farmmer and Boice and informed that he could not have all his legal work and book, security forbids and you may help someone, but, if you agree not to give anyone and don't help anyone you may take a few papers and books, to which Lasky agreed and only took his pad and civil right material, for everything Lasky returned with is essential in preparing a defense and a fair trial all in violation of the First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments;

11, Plaintiffs' are either now suffering and are in grave danger of suffering the abuse and deprivations of civil rights of which complaint is here made. There is no effective administrative relief available to redress these wrongs. Plaintiffs' have no adequate remedy at law. JONES V. WITTENBERG, 323 F. Supp. 93 (N.D. Ohio 2/17/71); RHEM V. McGRATH, 326 F. Supp. 681 (S.D.N.Y. 3/17/71); SEALE V. MANSON, 326 F. Supp. 1375, 9 Cr.L 2209 (D. Conn. 5/5/71); WILWORDING V. SWENSON, 404 U.S. —, 92 S. Ct. 407, 40 U.S.L.W. 3227 (12/14/71); BATCHLDER V. GENRY, —F. Supp— (Civ. C. 71-2017) (N.D. Calif.; stipulation and order filed 11/12/71); MARSH V. MOORE, 325 F. Supp. 392 (D. Mass. 4/8/71).

12, Unless the declaratory and injunctive relief sought herein be granted, plaintiffs' (e.g., pre-trial-detainees) will continue to suffer irreparable harm from the conditions set forth in this complaint and to be subjected to the deprivation of their constitutional rights as set forth herein.

WHEREFORE, plaintiffs' demand judgment, as follows:

a, Adjudging and declaring that the acts of defendants Quinlin, Farmmer, Boice, Smith, Callunan, et al., alleged in paragraphs 9 and 10 above were and are in violation of the rights of plaintiffs and the class they represent under the Constitution of the United States.

b, Enjoining defendants and each of them and their officers, agents, servants, employees and attorneys and all persons in active concert or participation with them from:

(1) Denying such inmates from the above alleged acts set forth in above paragraphs 9 and 10, and:

(2) Ordering defendants to take appropriate measures to effect the elimination or correction of the condition complained of in paragraphs 9 and 10 of this complaint, and;

(3) Retaining jurisdiction over this action until the Court is ~~xx~~ satisfied that the conditions complained of in paragraphs 9 and 10 of this complaint have been eliminated or corrected and that there is assurance that the constitutional rights of plaintiffs and the members of the class which they represent will no longer be imperel.

(4) Granting such other and further relief as to this Court may seem just and proper.

STATE OF NEW YORK }
COUNTY OF DUTCHESS } SS.:

Sworn to before me this
13th day of February, 1973
S/ Robert Hermann
NOTARY PUBLIC

ROBERT HERMANN
Notary Public, State of New York
No. [illegible]
Qualified in [illegible] County
Commission Expires March [illegible] 1973

RESPECTFULLY SUBMITTED,
BY: Raymond J. Pasby
Raymond J. Pasby
Nichols Zachary III
Harold Howard
Clayton Fishburn
Richard Hartford

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

NOTICE OF MOTION FOR ORDER GRANTING A CIVIL RIGHTS PETITION SWORN TO FEBRUARY 13, 1973
(pp. 15a-16a)

CLASS ACTION, RAYMOND G. LASKY; NICHOLS ZACHARY; HAROLD HOWARD; CLAYTON FISHBURN; RICHARD HARLAND and PRE-TRIAL DETAINEES,

Plaintiffs,

- against -

SHERIFF LAWERNCE QUINLIN, SERGEUT FARMMER; TAILERS, BOICE; H. SMITH; CALLHAN, et al.,

Defendants.

NOTICE OF MOTION
CIVIL RIGHTS COMPLAINT
28 U.S.C. §§ 1331, 1343, 2201; 42 U.S.C. § 1983
RULE 23; 65

SIRS:

PLEASE TAKE NOTICE, that upon the annexed affidavit-complaint of above-captioned and pre-trial-detainees, duly sworn to this 13 day of FEBRUARY, 1973, and upon all other proceedings (had hereinafter) the undersign will move this Court on the 23 day of FEBRUARY, 1973, at 10:00 o'clock A.M., at the opening of Court (Civil) on that day or as soon thereafter as Plaintiffs' can be heard, for an order granting a CIVIL RIGHTS PETITION, PURSUANT TO TITLES, 28 U.S.C. §§ 1331, 1343, 2201; 42 U.S.C. § 1983 and F.R.C.P. 23 and 65. on the grounds that the alleged acts of defendants' are in violation of the plaintiffs' Constitutional Rights, United States Constitution, First, Fourth, Fifth, Sixth, Eighth and Fourteenth Amendments, thereto, and because of the graveness, this action (Class Action), be given special intervention by this Court so as not to have plaintiffs' suffer irreparable harm with respect to the

alleged acts contained in the complaint and for such other and further relief as to this Court may seem just and proper.

DATED: February 13, 1973

CITY OF POUGHKEEPSIE
STATE OF NEW YORK
DUTCHESS COUNTY JAIL
PRE-TRIAL-DETAINEES

Yours etc.,

BY:

Raymond G. Lasky
Nichols Zachary III
Harold Howard
Clayton Fishburn
Richard Harland

VERIFICATION

STATE OF NEW YORK
COUNTY OF DUTCHESS } SS.:

Raymond G. Lasky, Nichols Zachary III, Harold Howard, Clayton Fishburn, Richard Harland, being duly sworn, deposes and says:

1. That we are the plaintiffs above-captioned and knows the same to be true, except as to matters unknown to them, believes to be true.

2. The verification is made by the plaintiffs because of the conditions, are unable to have access to all pre-trial-detainees.

Yours etc.,

Raymond G. Lasky
Nichols Zachary III
Harold Howard
Clayton Fishburn
Richard Harland

Sworn to before me, this
13 day of February, 1973

S/ Robert Heuman
NOTARY PUBLIC
Notary Public, State of New York
No. 24-[illegible]

-H-

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MOTION TO PROCEED IN FORMA PAUPERIS (pp. 17a-18a)

CLASS ACTION, RAYMOND G. LASKY; NICHOLS ZACHARY; HAROLD HOWARD; CLAYTON FISHBURN; RICHARD HARLAND, and PRE-TRIAL DETAINEES,

Plaintiffs,

- against -

SHERIFF LAWERNCE QUINLIN; SERGEANT FARMMER; JAILERS, BOICE; A. SMITH; CALLHAN, et al.,

Defendants.

MOTION TO PROCEED IN FORMA PAUPERIS TITLE 28 U.S.C. § 1915

SIRS:

COMES THE PLAINTIFFS', RAYMOND G. LASKY, ~~XXXXXXXX~~ NICHOLS ZACHARY III, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND and PRE-TRIAL-DETAINEES, and moves this Court pursuant to TITLE 28, U.S.C. 1915, for permission to proceed INFORMA PAUPERIS in filing the attached complaint, pursuant to 28 U.S.C. §§ 1331, 1343, 2201; 42 U.S.C. § 1983 and F.R.C.P. Rules 23 and 65. Affidavit in support of this motion attached hereto.

DATED: ~~FEBRUARY~~ 13, 1973.

DUTCHESS COUNTY JAIL
POUGHKEEPSIE, NEW YORK

Yours etc.,

BY:

Raymond G. Lasky
Nichols Zachary III
Harold Howard
Clayton Fishburn
Richard Harland

STATE OF NEW YORK
COUNTY OF DUTCHESS } SS.: 18a AFFIDAVIT

SIRS:

PLAINTIFFS', LASKY, ZACHARY III, HOWARD, FISHBURN, HARLAND, being duly sworn, according to law, state in support of attached Motion, to PROCEED IN FORMA PAUPERIS:

1. We are the Plaintiffs' in the above entitled action.
2. We are unable, because of our poverty, and in good faith belive the class represented herein are indigent, and unable because of their poverty, to pay the cost of this case.
3. We are unable to give security for it.
4. We belive in good faith, we are entitled to the relief we are seeking.
5. the nature of the case, briefly stated as follows:

Pretrial Detainees are denied their Constitutional Rights, as a result of the conditions of their detention because they are to poor to make bail, there by denied the right to redress, counsel, fair trial and a speedy one, and to exercise in their religious faiths, which are given to convicted criminals all in violation of the due process and equal protection clause.

Sworn to before me this
13 day of February, 1973
S/ Robert Herm
NOTARY PUBLIC

ROBERT HERMANN
Notary Public, State of New York
Qualified in
Commission Expires March 30, 1973

RESPECTFULLY SUBMITTED,
BY: Raymond G. Lasky
Raymond G. Lasky
Nicholas Zachary III
Harold Howard
Clayton Fishburn
Richard Harland

NOTICE OF MOTION FOR PREFERENCE DATED FEBRUARY 13, 1973

UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

CLASS ACTION, RAYMOND G. LASKY; NICHOLS ZACHARY; HAROLD HOWARD; CLAYTON FISHBURN; RICHARD HARLAND, and PRE-TRIAL-DETAINEES,

Plaintiffs'

-against-

SHERIFF, LAWERNCE QUINLIN; SERGEANT FARMMER; JAILERS, BOICE; H. SMITH; CALLIHAN, et al.,

Defendant.

NOTICE OF MOTION

COMPLAINT CIVIL

SIRS:

PLEASE TAKE NOTICE, that upon the annexed affidavit of the undersign, and all proceedings had herein, the undersigne hereby moves this Court preference in filing annexed complaint and papers, and pray this Court will not dismiss for failure to comply to form, for reasons herein stated, affidavit attached herewith.

DATED: FEBRUARY 13, 1973.

Yours etc.,

BY: Raymond G. Lasky

Nichols Zackary III

Harold Howard

Clayton Fishburn

TO:

U.S.D.C.S.D.N.Y.

Sheriff, Dutchess

Court Jail

-R-

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT NEW YORK

AFFIDAVIT OF PLAINTIFFS IN SUPPORT OF MOTION FOR PREFERENCE SWORN TO FEBRUARY 13, 1973 (pp.20a-25a)

CLASS ACTION. RAYMOND G. LASKY; NICHOLS ZACHARY; HAROLD HOWARD; CLAYTON FISHBURN; RICHARD HARLAND, and PRE-TRIAL-DETAINEES,

Plaintiffs;

— against —

SHERIFF LAWERNCE QUINLIN; SERGEANT FARMMER; JAILERS, BOICE; A. SMITH; CALLUHAN, et al.,

Defendants.

AFFIDAVIT

STATE OF NEW YORK
COUNTY OF DUTCHESS } SS.:

LASKY, ZACHARY, HOWARD, FISHBURN and HARLAND, being duly sworn, deposes and says:

1. Plaintiffs' are the above-captioned complainants and representatives of the class, presently and previously confined and future PRE-TRIAL-DETAINEES, REMANDED into the custody of the Dutchess County Jail, Poughkeepsie, New York, and that the represented class they represent will be fairly and adequately protect the interest of the class

2. Plaintiffs, the undersign must file attached claim, and papers without having been NOTARIZED, on information and belief:

(a) a claim having been made and placed in the hands of an agent of the Sheriffs' Department, by the PRE-TRIAL-DETAINEES on or about the 10-15 of June, 1972, to be forwarded to the United States District Court, in New York City, and:

(b) a second claim was again placed in the hands of an agent on or about the 5-10 of August, 1972 to be forwarded to same as above (2-(a)).

3. Plaintiffs' b se of the alleged acts (paragraph 2, (a), (b) belive in good faith that if the third complaint was placed in the hands of the agent or agents to be forwarded to the United States District Court, Southern District, New York City and the Sheriff or Defendants' Attorney, it would be destroyed as the first and second must assumed to have been destroyed for no receipt has been forwarded and no action has been take to investigate the charges alleged therein.

4. Plaintiffs will place in the hands of an agent (Jailor) to forward to the sheriff, on the premise of the Dutchess County Jail, Dutchess County, Poughkeepsie, New York.

5. Plaintiffs, the undersigh will smuggle the original out so that it will safily and intact reach its destination.

6. Plaintiffs, because of the conditions that are alleged in the complaint can not file with this or any Court papers other than which this claim and papers are hand-written (printed) upon. Even the pen which is used is illegal and only pencils are allowed.

7. Plaintiffs agree that if the claim is returned for noncompliance with jurisdiction, form or procedure that it be returned to RAYMOND G. LASKY and upon his return will see to it that if at all possible the necessary correction are made and refiled, but pray this Court will overlook any defects.

8. Plaintiffs on information and belief, request that ~~a Federal Monitor~~ be assigned to the Dutchess County Jail, Poughkeepsie, New York, so as to protect the rights of the undersign and the class they represent, because there is a likelihood that physical injury, isolation, seizure of legal papers and personal property will accure once the Sheriff receives his copy, untill a final determination is reached on the merits of the alleged acts committed in violation of plaintiffs Constitutional Rights, First, Fourth, Fifth, Sixth, Eighth and Fourteenth, Amendments thereto.

WHEREFORE, plaintiffs' and the class that they represent, request of the within Motion to be granted and any further relief as this Court may deem appropriate

Sworn to before me this
13th day of February, 1973
S/ Robert Hermann
NOTARY PUBLIC

ROBERT HERMANN
Notary Public, State of New York
No. 24-1771327
Qualified in Kings County
Commission Expires March 30, 1973

BY: Raymond J. Pasky
PLAINTIFFS
Raymond J Pasky
Nicholas Pasky III
Harold Howard
Clayton Fichburn
Richard Borland

TO:

Clerks office
U.S.D.C., S.D.N.Y.
United States Court House
Foley Square
New York City, N.Y., 10007

TO:

Sheriffs' Agent (Jailor)
Dutchess County Jail
Dutchess County
Poughkeepsie, N.Y.

PRESENT ADDRESSES

NAMES AND ADDRESSES OF COMPLAINANTS':

Sheriff and Agents.
Dutchess County Jail
Poughkeepsie, N.Y.

ADDRESSES OF COMPLAINANTS' RESIDENTS:

RAYMOND G. LASKY
Box B — 43092
DANNEMORA, N.Y. 129.

RICHARD HARLAND
Box 288
WASSACA, N.Y.

HAROLD HOWARD, Jr.
1706 62th AVE.
Cheverly, Maryland, 20785

Clayton FISHBURN
334 MANSION STREET
POUGHKEEPSIE, N.Y. 12601

NICHOL ZACHARY III
DEPT. OF CORR. N.Y.
Comm. CORR. OSWALD.
ALBANY, N.Y.

DEFENDANTS' ADDRESS:
ATTORNEY UNKOWN: SERVED PERSONALY AT THE DUTCHESS COUNTY JAIL'S OFFICE:

SHERIFF L. QUINLIN
DUTCHESS COUNTY JAIL
POUGHKEEPSIE N.Y.

STATE OF NEW YORK }
DUTCHESS COUNTY } SS.: 25a

CERTIFICATE OF SERVICE

I RAYMOND G. LASKY, acting in good faith, on behalf of plaintiffs, ZACHARY III, HOWARD, FISHBURN and HARLAND, and (all PRE-TRIAL-DETAINEES), have agreed to have the attached Complaint and related Papers, NOTARIZED, if able, forwarded by United States Mail to the addresses as follows:

1. PRO SE CLERK OF COURT
United States District Court
Southern District of New York
United States Court-House
Foley Square, New York., N.Y. 10007

2. SHERIFF OFFICE
Sheriff L. Quinlin
Dutchess County Jail
Poughkeepsie, N.Y.

copies of the Complaint and Papers.
Sworn to before me this 12th
day of February, 1973

Raymond G. Lasky
BY: Raymond G. Lasky
Nicholas Zachary III
Harold Howard
Clayton Fishburn
Richard Harland

9/
NOTARY PUBLIC
Robert Herman
ROBERT HERMANN
Notary Public, State of New York
No. 24-1771327
Qualified in Dutchess County

PRO SE

SUMMONS

SUMMONS IN A CIVIL ACTION (Dated April 16, 1973) (Formerly D. C. Form No. 45 Rev. (6-48)) CIV. 1 (2-64) 26a

FILED U.S. DISTRICT COURT MAY 17 3 03 PM '73 S.D. OF N.Y.

United States District Court

FOR THE

SOUTHERN DISTRICT OF NEW YORK

JUDGE GURFEIN

73 Civ. 1666

CIVIL ACTION FILE NO.....

RAYMOND G. LASKY, NICHOLS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, and Pre-Trial Detainees,

Plaintiff

v.

Sheriff LAWRENCE QUINLIN, Sergeant FARMMER, Jailers BOICE, A. SMITH, CALLUIAN,

Defendant

SUMMONS

RECEIVED 1973 APR 16 PM 2:11 S.D. OF N.Y.

To the above named Defendant :

You are hereby summoned and required to serve upon

Raymond G. Lasky

plaintiff's ~~attorney~~ Pro Se, whose address #43092 Box B Dannemora, N.Y. 12929

an answer to the complaint which is herewith served upon you, within 20 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgement by default will be taken against you for the relief demanded in the complaint.

THOMAS E. ANDREWS,
Acting Clerk of Court.
E. A. Becton
Deputy Clerk.

Date: APR 16 1973

[Seal of Court]

(2)

Note:—This summons is issued pursuant to Rule 4 of the Federal Rules of Civil Procedure.

(pp. 26a-1 - 26a-2)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CLASS ACTION, RAYMOND G. LASKY, NICHOLS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, and the PRE-TRIAL DETAINESS,

Plaintiffs,

-against-

SHERIFF LAWRENCE QUINLIN, SERGEANT FARMER, JAILERS, BOICE, A. SMITH, CALLUIAN, ET AL,

Defendants.

U.S. DISTRICT COURT
FILED
JUN 22 1973
S. D. OF N. Y.

ANSWER

The defendants, SHERIFF LAWRENCE QUINLIN, SERGEANT FARMER, JAILERS, BOICE, A. SMITH, CALLUIAN, ET AL, above named by their attorney, JOHN KENNEDY, The County Attorney of the County of Dutchess and State of New York, answering the Complaint of the plaintiffs herein respectfully shows to this Court and alleges as follows:

ANSWERING THE ALLEGED FIRST CAUSE OF ACTION ON BEHALF OF PLAINTIFFS:

1. DENIES any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs marked and numbered "1", "2", "3", "4", "6" and "8" of the said complaint.

2. DENIES so much of paragraph "5" that pertains to CLAYTON FISHBURN and RICHARD HARLAND being confined to the Dutchess County Jail.

3. DENIES paragraphs "7 (a) and (b)"; "9 (a), (d), (e), (h), (i), (j), (k), (l), (m) and (n)" of the said complaint.

4. DENIES upon information and belief each and every allegation contained in paragraphs marked and numbered "9 (b), (c), (f) and (g)" of the said complaint.

ANSWERING THE ALLEGED SECOND CAUSE OF ACTION ON BEHALF OF PLAINTIFF LASKY:

5. The defendants repeat, reiterate and reallege each and every denial contained in paragraph marked and numbered "10" of the said complaint.

6. DENIES paragraph "10 (a), (b), (c), (e)"; "11" and "12" of the said complaint.

7. DENIES any knowledge or information sufficient to form a belief as to each and every allegation contained in paragraph marked and numbered "10 (d)" of the said complaint.

WHEREFORE, the defendants respectfully request this Court to dismiss the within Complaint.

JOHN KENNEDY
County Attorney Of Dutchess County
Attorney for Defendants

Office & P.O. Address
22 Market Street
Poughkeepsie, New York

BEST COPY AVAILABLE

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- -x

RAYMOND G. LASKY, et al., :

Plaintiffs, : 73 Civ. 1666

-against- : STIPULATION

SHERIFF LAWRENCE QUINLIN, et al., :

Defendants. :

- -x

IT IS STIPULATED by and between the parties in the above-entitled action that the defendants will implement the provisions set forth below:

1. Classification of Inmates.

Persons detained for trial or examination upon a criminal charge shall not be put or kept in the same room with convicts under sentence. Minors shall not be put or kept in the same room with adult inmates. Housing and separation of inmates must conform in all respects with the requirements of 7 N.Y.C.R.R. § 5100.14(a)-(b) and N.Y. Correction Law § 500-c.

2. Inmate Personal Hygiene.

a. On admission, each inmate must receive a clean towel, two clean blankets (depending on the season of the year), two clean sheets, one clean pillow and one clean pillow case. White goods and institutional clothing must be exchanged at least weekly, and blankets, mattresses and pillows must be checked and aired frequently. All bedding including pillow and mattress should be removed from the housing area when an inmate is discharged, carefully checked, and not reissued until laundered, cleaned or repaired as may be necessary.

b. Each inmate must bathe immediately on admission, his or her physical health permitting. An adequate supply of water at a temperature suitable for bathing must be available at all times in showers. Necessary toilet articles such as hair shampoo, deodorant and soap not containing hexachlorophene must be made available to inmates by purchase or otherwise. The packaging of such articles must be consistent with considerations of Jail safety and security.

c. Inmate personal hygiene must be maintained in all respects in conformity with 7 N.Y.C.R.R. § 5100.6.

3. Health Services.

a. Each inmate in continuous custody at the Jail for 14 or more days must be examined by the physician, and a medical file must be established for such inmate at that time. Such a medical file must be kept current and must be maintained as part of the permanent records of the Jail.

b. Each inmate admitted to the Jail on a charge of public intoxication or complaining of or evidencing any illness or disorder requiring prompt medical attention must be examined by the physician at the time of admission or as soon thereafter as possible.

c. There must be ample and adequate rooms, equipment and supplies for conducting physical examinations of inmates and for treatment of medical emergencies and minor injuries and illnesses.

d. There must be quarters for inmates who are too ill to remain safely as part of the general Jail population, but not sufficiently ill to require hospitalization.

e. There must be adequate facilities or arrangements for dental examinations and treatment, both curative and preventive.

f. Any inmate, sentenced or unsentenced, suffering from a chronic condition diagnosed by the Jail physician or otherwise called to his attention shall be afforded appropriate treatment and care. Status as an inmate and anticipated length of confinement are not proper considerations in determining the extent and quality of such treatment.

g. Health services must be provided in other respects in conformity with 7 N.Y.C.R.R. § 5100.11.

4. Food.

a. Kitchen, kitchen equipment, food storage, serving methods and sanitation shall meet minimum standards prescribed by law for restaurants.

b. All persons working in and around the kitchen and handling and serving food shall meet restaurant health requirements.

c. Kitchen and food service shall be regularly inspected by the public health authorities on the same basis as restaurants serving the public; recommendations or requirements of the public health authorities shall be implemented within the time allowed by said authorities.

d. Minimum nutritional standards shall be maintained for inmates who, for religious reasons, choose not to eat pork or pork products.

e. Food services must be maintained in other respects in conformity with 7 N.Y.C.R.R. § 5100.10.

5. Recreation.

An outdoor recreation and exercise area must become operational no later than six months from the date of this order.

6. Communication.

a. County-issued or other authorized stationery for inmate correspondence must accurately state all restrictions, if any, on inmate correspondence.

b. Inmates confined under sentence may be restricted in the number and classes of persons with whom they may correspond and in the frequency of that correspondence. Such restrictions must be communicated in writing to all such inmates.

c. Inmates not under sentence may not have their correspondence restricted as in subparagraph b hereof.

d. Incoming mail addressed to an inmate confined under sentence may be read by designated Jail personnel and may be censored for the sole purpose of protecting the safety and security of the Jail. The sender of censored mail must be identified to the inmate in writing. Such mail must be kept in a safe place and given to the inmate upon his release from the Jail.

e. Special correspondence shall be permitted to the President of the United States, the Governor of the State of New York, members of the New York State Legislature The New York State Commission of Correction, the Chairman of the New York State Parole Board, and to any attorney or any court. Outgoing special correspondence may be examined but must be sealed in the presence of the inmate to insure absence of contraband prior to mailing but shall not be read

or censored. Incoming special correspondence shall be opened and inspected for contraband in the presence of the inmate but shall not be read or censored.

f. The services of a notary public must be made available to inmates.

g. On arrival at the Jail, each inmate shall be informed that he is allowed to make, without charge, one local telephone call to communicate with an attorney, a family member or relative, an employer or any other individual. Telephone calls must be made from an area where proper security and privacy of communication can be maintained.

h. For inmates not under sentence who are without counsel, provision shall be made for as many telephone calls by the inmate as are necessary to obtain counsel.

i. Communication to and from inmates shall be regulated in other respects in conformity with 7 N.Y.C.R.R. § 5100.5 and § 5100.3(b).

7. Reading Materials.

Inmates may receive any literature, except that designated Jail personnel may censor literature the content of which threatens the safety and security of the Jail. No issue of a periodical may be censored because another issue of that periodical has been censored. No publication may be censored because of the identity of its author. The literature censored must be identified to the inmate in writing, kept in a safe place and given to the inmate upon his release from the Jail.

8. Legal Assistance.

If an inmate is unable to secure counsel with respect to a civil or criminal matter, the inmate may consult with other inmates for that purpose.

9. Discipline.

a. Where necessary for maintenance of order or discipline, an inmate may be confined in a cell or room apart from other inmates, and/or put on a restricted diet, but in any such case the following conditions shall be observed:

(1) Where such confinement or restricted diet is for a period in excess of 24 hours, the physician shall visit such inmate at the expiration of 24 hours and at least once in every 24 hour period thereafter, during the period of such confinement or restricted diet, to determine the state of health of the inmate. The Sheriff shall give full consideration to any recommendation made by such physician for measures with respect to dietary needs or conditions of confinement required to maintain the health of such inmate.

(2) Such an inmate shall be supplied with a sufficient quantity of wholesome and nutritious food, provided, however, that such food need not be the same as the food supplied to inmates in the general Jail population.

(3) Adequate sanitary and other conditions required for the health of the inmate shall be maintained. If for reasons of sanitation it becomes necessary to turn off the water in a cell, the water shall be turned on in that cell or made available elsewhere at intervals sufficient to allow the occupant of that cell to relieve himself of waste and to obtain drinking water.

(4) An inmate shall not be deprived of his clothing for disciplinary reasons.

b. In situations where an inmate's physical or mental condition or his protection from other inmates requires, constant observation and supervision is required. Inmates who appear to be dangerously violent or suicidal must be examined immediately by a physician, and if he determines it advisable, removed to a facility where proper care and supervision are available.

c. A list of rules and regulations governing inmate conduct and listing standardized operating procedures which relate thereto shall be promulgated and a copy thereof shall be prominently posted in each inmate house area.

d. Discipline, security and supervisory visits shall be conducted in other respects in conformity with 7 N.Y.C.R.R. § 5100.4 and § 5100.7 and with N.Y. Correction Law § 137(6) as made applicable to county jails by N.Y. Correction Law § 500-k.

10. Alterations and Repairs to Physical Plant.

a. Each cell, including isolation cells, must be provided with a light fixture sufficient to permit reading and writing without causing eye strain.

b. There must be adequate heating and ventilation at all times.

c. All malfunctions and leaks in plumbing must be repaired immediately without regard to the cause of the malfunction or leak.

11. Implementation.

The Sheriff will submit within 30 days of Court approval of the terms of this stipulation a plan for the

implementation of paragraphs 3, 5, and 10 of this stipulation.

Dated: July 11, 1973

By _____
Attorney for Plaintiffs

By _____
Attorney for Defendants

LETTER FROM JACK P. LEVIN TO DENIS J. McCLURE DATED SEPTEMBER 14, 1973 Re: STIPULATION OF IMPLEMENTATION WITH RULES AND REGULATIONS REGARDING THE OPERATION OF THE DUTCHESS COUNTY JAIL ANNEXED (pp.35a-37a)

CHASE MANHATTAN PLAZA
NEW YORK, N.Y. 10005

September 4, 1973

Re: Lasky v. Quinlin

Denis J. McClure, Esq.
272 Mill Street
Poughkeepsie, N.Y. 12601

Dear Denis:

I am writing to inquire about implementation of Judge Gurfein's Opinion and Order. In particular, the Judge required the Sheriff "to post currently, and to give to each inmate upon his admission, a copy of a new set of rules and regulations of the Dutchess County Jail consistent with the Stipulation." As these rules and regulations were to be made available by September 1, 1973, I would appreciate receiving them as soon as possible.

Paragraph 11 of the Stipulation requires the submission of a plan for the implementation of Paragraphs 3, 5 and 10 of the Stipulation. The time for submission having expired, I would also appreciate receiving a copy of the plan.

I am mindful that not all provisions of the Stipulation can be implemented immediately. However, plaintiffs will follow closely the implementation of the Stipulation and the continued observance of its provisions.

Yours very truly,

Jack P. Levin

Jack P. Levin

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RULES AND REGULATIONS

REGARDING THE OPERATION OF THE DUTCHESS COUNTY JAIL

EFFECTIVE IMMEDIATELY!!

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5. ANY INMATE REQUIRING IMMEDIATE MEDICAL ATTENTION OF AN EMERGENCY NATURE WILL BE TRANSPORTED TO A LOCAL HOSPITAL.

6. TELEVISION ~~AND RADIOS~~ WILL BE TURNED OFF AT 10:00 P.M.

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   b. JAILOR WILL APPROVE ONLY CALLS TO LAWYERS OR TO THOSE PERTAINING TO THEIR CASE, (FOR BAIL, ETC.) NO SOCIAL CALLS SHALL BE PERMITTED.

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DUTCHESS COUNTY JAIL

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LETTER FROM LAWRENCE M. QUINLAN TO HON. FRANK S. McCULLOUGH
DATED SEPTEMBER 25, 1973 with CORRESPONDENCE ANNEXED
(pp. 38a-44a)

September 25, 1973

Hon. Frank S. McCullough
Administrative Judge
Ninth Judicial District
Supreme Court Chambers
Court House
White Plains, New York 10601

Dear Judge McCullough:

Pursuant to your request of September 19, 1973, herewith enclosed find a copy of the Rules and Regulations which have been posted in the Dutchess County Jail, pursuant to Judge Gurfein's decision.

Very truly yours,

LAWRENCE M. QUINLAN
SHERIFF, DUTCHESS COUNTY

CAB/LMQ/ga
Enclosure

State of New York
Supreme Court Chambers
Court House
White Plains, N. Y. 10601

Frank S. McCullough
Administrative Judge
Ninth Judicial District

September 19, 1973

Mr. Lawrence Quinlan, Sheriff
Dutchess County
Courthouse
Poughkeepsie, New York 12601

Dear Mr. Quinlan:

In view of the recent ruling of Judge Murray Gurfein in the case of Lansky v. Quinlan, I would appreciate receiving from you a copy of the rules to be posted by you, referred to in Judge Gurfein's decision.

Very truly yours,

FRANK S. McCULLOUGH
Administrative Judge

fsm;as

September 25, 1973

Mr. Denis J. McClure
Assistant County Attorney
Dutchess County Office Building
22 Market Street
Poughkeepsie, New York

Dear Denis:

Receipt is hereby acknowledged of your letter of September 18, 1973, wherein you enclosed a copy of a letter from Attorney Jack B. Levin.

With respect to the Order of Judge Gurfein, be advised that at the present time we have in fact complied with Paragraph 3.

In regard to the Recreation Yard, Paragraph 5, this is being implemented and as recited in the Order of the Court, we have six months to make such implementation from the day of the order. At the present time the land has been prepared and the blacktop operation has been completed. The only further need for implementation of this plan is the fencing for which a contract has been awarded.

With respect to Paragraph 10, Subdivision A, this is presently being complied with.

With respect to Paragraphs B & C, these implementations have been made.

Very truly yours,

LAWRENCE M. QUINLAN
SHERIFF, DUTCHESS COUNTY

CAB/LMQ/ga

OFFICE OF

THE COUNTY ATTORNEY OF DUTCHESS COUNTY

POUGHKEEPSIE, N. Y.

JOSEPH H. GELLERT
COUNTY ATTORNEY
COUNTY OFFICE BUILDING
22 MARKET STREET
POUGHKEEPSIE, N. Y. 12601
TELEPHONE 914-485-9864

September 18, 1973

Dutchess County Sheriff's Office
North Hamilton Street
Poughkeepsie, New York

Attn: Lawrence M. Quinlan, Sheriff

Re: Lasky -v- Quinlin

Dear Larry:

Please advise if anything the steps that have been taken in reference to the materials requested in Mr. Levin's, which I enclose.

Your cooperation will be greatly appreciated.

Very truly yours,

DENIS J. McCLURE
Assistant County Attorney

/dai
Enc. (1)

1 CHASE MANHATTAN PLAZA
NEW YORK, N. Y. 10005

September 4, 1973

Re: Lasky v. Quinlin

Denis J. McClure, Esq.
272 Mill Street
Poughkeepsie, N.Y. 12601

Dear Denis:

I am writing to inquire about implementation of Judge Gurfein's Opinion and Order. In particular, the Judge required the Sheriff "to post currently, and to give to each inmate upon his admission, a copy of a new set of rules and regulations of the Dutchess County Jail consistent with the Stipulation." As these rules and regulations were to be made available by September 1, 1973, I would appreciate receiving them as soon as possible.

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LETTER FROM JOHN M. KENNEDY TO LAWRENCE M. QUINLAN DATED FEBRUARY 26, 1974 WITH JACK P. LEVIN LETTER OF FEBRUARY 22, 1974 ANNEXED (pp. 45a-47a)

OFFICE OF
THE COUNTY ATTORNEY OF DUTCHESS COUNTY

JOHN M. KENNEDY
COUNTY ATTORNEY

COUNTY OFFICE BUILDING
POUGHKEEPSIE, N. Y. 12601
TELEPHONE (914) 485-9864

February 26, 1974

Hon. Lawrence M. Quinlan, Sheriff
150 North Hamilton Street
Poughkeepsie, New York

Re: Lasky vs. Quinlan

Dear Larry:

Forwarded herewith for your information is a copy of a letter, dated February 22, 1974, from the attorney for the plaintiffs in this matter.

Yours very truly,

John M. Kennedy
Dutchess County Attorney

Encl.
JMK:EGOB
cc: Charles Borchers

1 CHASE MANHATTAN PLAZA
NEW YORK, N.Y. 10005

DUTCHESS COUNTY
ATTORNEY'S OFFICE
RECEIVED
1974 FEB 26 AM 9:17

February 22, 1974

Re: Lasky, et al. v. Quinlin, et al.

John Kennedy, Esq.
County Attorney
County Office Building
22 Market Street
Poughkeepsie, New York 12601

Dear Mr. Kennedy:

This is to confirm our telephone conversation earlier today.

The answers to interrogatories served on the defendants in the above-captioned matter were originally due on February 14, 1974. At Mr. McClure's request that date was extended one week. I am now granting a further and final extension to February 28, 1974.

Substantial evidence from numerous sources convinces me that the stipulation approved by Court Order dated July 30, 1973 has been only partially complied with and that grave abuses continue unchecked at the Dutchess County Jail. Neither my personal contacts with the Sheriff nor his public statements as reported in the press give any reason to suppose that he intends to comply with that Order.

The seriousness of this matter is illustrated by two flagrant abuses. Since the summer of 1973 the incidence of homosexual assault has not abated. Similarly, the quality of medical care has not improved. The Sheriff is quoted in the press as stating that physical examination of inmates upon admission is not required by the Order. There is every indication that failure to comply with the

Order results not from the impossibility of fulfilling its terms but rather from an unwillingness to do so.

Informal efforts to secure compliance have failed. If adequate assurances of immediate and full compliance are not forthcoming, I will not hesitate to make a motion to hold Sheriff Quinlan in contempt of Court, seeking a fine, imprisonment and attorneys' fees. There is ample authority for imposition of these sanctions.

I trust you will keep these considerations in mind in advising your clients.

Yours very truly,

Jack P. Levin

cc: Denis J. McClure, Esq.

AA

48a

LETTER FROM LAWRENCE M. QUINLAN TO HON. WILLIAM H. BARTLETT

March 6, 1974

Hon. William H. Bartlett
Dutchess County Executive
Dutchess County Office Building
22 Market Street
Poughkeepsie, New York

Dear Bill:

An emergency meeting was held at my office with "Public Safety Committee" this date, at which time we discussed the urgent need for added space to the Dutchess County Jail for safety of inmates and employees.

Mr. Larry Hughes of the Poughkeepsie Journal, was present during the meeting.

As a result of this meeting, there will be another meeting on March 14, 1974, at 4:00 P.M. in the large caucus room in the County Office Building, so that the matter can be discussed further with you and Henry Heisenbuttel, and anyone else who is interested in this matter of urgent need.

Hope that you will be able to attend this meeting, so that you will have all the facts and can add your personal thoughts on the matter that might add to some immediate action.

Sincerely yours,

LAWRENCE M. QUINLAN
SHERIFF, DUTCHESS COUNTY

LMQ/ga 3-7-74

4PM Changed to
3-13-74 - 4PM
by Mr. Bartlett

MINUTES OF JOINT MEETING OF PUBLIC SAFETY COMMITTEE AND PLANNING AND CAPITAL PROJECTS COMMITTEE ON MARCH 13, 1974 (pp.49a-52a)

JOINT MEETING OF PUBLIC SAFETY COMMITTEE AND PLANNING & CAPITAL PROJECTS COMMITTEE
MARCH 13, 1974

Members Attending: Madison Sipperley, George Reid, Stanley Waryas, Leslie Close, John Armstrong, Joseph Lombardi, Robert Piggott, G. Donald Finnan, John Ringwood, William Bartlett, Clyde Chase and Daniel Harrigan

Guests: Sheriff Quinlan, Raymond Leonard, William Bartles and Henry Heissenbuttel

The meeting was called to order by William Bartlett, Chairman of the Public Safety Committee, and Madison Sipperley, Vice Chairman of the Planning and Capital Projects Committee.

Letter received from Lucille Pattison was read by the committees.

Mr. Bartlett stated I would like to discuss the crowded conditions at the Jail. The jail is supposed to accommodate 100 prisoners presently there are 126. To transfer prisoners to Ulster County, it would cost the County $16 per day. Two years ago, the Sheriff sent a letter to Henry Heissenbuttel regarding the expansion of the jail.

Mr. Heissenbuttel stated I received a letter for the need to expand the County jail faculities. This was incorporated in the Capital program, listed in the indefinite column. Last March, Larry came back regarding parking conditions at the jail. Last November, Larry talked about expanding the jail.

Mr. Bartlett stated something has to be done immediately. Have to go into some building program. Ulster County will accept inmates only if they have the space available.

Mr. Waryas stated there are 185 cells in Ulster County.

Mr. MacMullen stated they have to keep 6 different groups separate.

Mr. Lombardi asked why couldn't the City cells be used.

Mr. Bartlett stated there wasn't enough room. It could be used in cases of emergency.

Mr. Waryas stated that prisoners could be kept there only over night until they are arraigned. No sentenced prisoners can be held there.

Mr. Bartles stated a very careful review of the system has to be made. People who commit minor offenses only occupy space. There should be a system where these people could be released right way and not sent to jail. Let's explore all the alternatives. Building a jail peice meal is not the answer. Lets make arrangements with Ulster County and then make some arrangements through the Courts regarding the people who commit lesser offenses.

Mr. MacMullen stated I suggest that the new County complex should have a jail in it.

Mr. Bartles stated by doing that you are asking for real trouble. Security is going to be a real problem.

Sheriff Quinlan stated my problem is space. The Department of Correction has been down to see me. Something has got to be done, I need more space and more security in order to segregate the various types of inmates.

The State Commission has told me that they know I couldn't do it by myself. They suggested that I come to you with the problem. My emergency situation is space which has to be dealt with immediately.

Mr. Leonard asked what would happen if nothing is done.

Sheriff Quinlan stated the State will probably citicize the County severly for not taking any action. The State may issue an order that would have to be followed. I really can't say what the State would do.

Mr. Leonard stated why couldn't you just put prisoners in Ulster County that have been sentenced.

Sheriff Quinlan stated you would never know what Ulster County has available.

Mr. Armstrong stated you were going to come up with some figures.

Sheriff Quinlan stated I had a man come in to look at the basement.

Five cells in the basement:
$30,000 for installation
$ 2,500 for toilets
$ 1,500 for security light fixtures (6)
$ 2,500 for water fixtures

The cost of 40 cells runs between $200,000 and $275,000.

Mr. Armstrong asked how many prisoners do you have right now that you would transfer to Ulster County.

Sheriff Quinlan stated maybe 5 or 6. You won't know if they are sentenced or unsentenced. My only obligation will be transporting them back and forth. We can't use any State institutions.

Dr. Hannigan asked if other prisons were over-crowded.

Sheriff Quinlan stated yes. The City of New York was transporting prisoners to Sing-Sing. This problem is not unique to Dutchess County.

Mr. Sipperley asked how long will it take to put in the 5 cells.

Sheriff Quinlan stated he didn't know. It might be done in a few months.

Mr. Sipperley stated your only choice now is to contract with Ulster County.

Sheriff Quinlan stated I suggest an addition be build to relieve our emergency situation. Perhaps we could build onto it later.

Mr. Heissenbuttel stated Larry first proposed a 2 story building

Sheriff Quinlan stated you have to keep in mind the outside of the jail. We could build in the back or on the northern side.

Mr. Bartles asked about an under ground jail.

Sheriff Quinlan stated some faculities could be underground. I don't know if there are any restrictions on this.

Mr. Waryas stated I notice this report recommends T.V. monitors. Would this help your security.

Sheriff Quinlan stated I have some coming in and I am preparing another bid.

Mr. Armstrong stated I notice in the Grand Jury report, and the State's report, both recommend more personnel.

Sheriff Quinlan stated both reports were made in August. In the budget I was given 6 extra positions. They recommended we should have 2 men on each floor.

Mr. Armstrong asked what would the monitors accomplish?

Sheriff Quinlan stated you can see the prisoners activities.

Mr. Waryas stated I was told that prisoners were screaming and no one heard them.

Sheriff Quinlan stated this is not true. They are working on that assumption. No one can scream and not be heard. We have an intercom system, but it is becoming deterrioated. I have an item in the budget to renovate it.

Mr. Bartles stated I will negotiate with Ulster County. What can we expect from Ulster?

Sheriff Quinlan stated it all depends on what they have available.

Mr. Bartlett asked what about the future needs.

Sheriff Quinlan stated we got to get started. The State Commissioner has told me to come to you to relieve this emergency situation.

Mr. Armstrong stated I disagree with you the emergency situation is security.

Sheriff Quinlan sated now that we have the exercise yard, the only problem is you can't make the people go outside. Some of them stay inside. So we need guards on the inside and outside.

The only immediate problem is space. I do have enough people.

Mr. Bartles stated I would suggest a meeting with State Corrections Commissions so we can go in logical steps. We could also discuss a work release program for minor offienders.

Sheriff Quinlan stated the State doesn't have any thing to do with that. There already is a work release program.

Mr. Heissenbuttel asked what kind of supervision would be needed.

Sheriff Quinlan statedsame as we have now, as long as we can keep the prisoners segerated.

Mr. MacMullen stated the Judicial System could be changed. Talk to the local Justices of the Peace.

Sheriff Quinlan stated this could be done.

Mr. Waryas stated I notice the State Commission's report states that the broken windows be replaced. When we made an inspection, there were 80 windows missing. Would you recommend screens be put in front of the windows.

Sheriff Quinlan stated that was being done now.

Mr. Bartles stated tomorrow I will get in touch with Ulster County. I think we should get in touch with the State Commission of Correction and talk it over with them.

Mr. Armstrong stated I thing we should have a complete study before we put in any cells.

Mr. Lombardi asked if the Sheriff had any kind of specifications.

Sheriff Quinlan stated I could use 40 additional cells.

Mr. MacMullen stated how many cells are in the old section and in the new section.

Sheriff Quinlan stated there are 40 cells in the new section and 89 cells in the old section. The old section needs to be renovated.

The meeting contined and the following subjects were discussed: cleanliness, and hanging blankets on the windows. The committees decided to arrange a meeting with the State Correction Commission and the make arrangements with Ulster County.

The meeting adjourned.

LETTER FROM LAWRENCE M. QUINLAN TO HON. WILLIAM H. BARTLETT DATED MAY 28, 1974 (pp.53a-54a)

AC

53a

MEMBER NATIONAL SHERIFF & ASS'N

LAWRENCE M. QUINLAN, SHERIFF
DUTCHESS COUNTY
150 N. HAMILTON STREET
POUGHKEEPSIE, N. Y.

ADDRESS ALL COMMUNICATIONS TO THE SHERIFF

PHONE 452-0400

May 28, 1974

Hon. William H. Bartlett
Chairman
Public Safety Committee
Dutchess County Board of Representatives
County Office Building
Poughkeepsie, New York

Dear Chairman:

In compliance with your request, and that of the members of the Public Safety Committee, in reference to the needs for expansion and renovation of the Dutchess County Jail to make it serviceable and enable me to comply with the minimum standards law, and with the recommendations of the New York State Commission of Correction, and other needs that I find that are necessary for a modern, operational jail facility, my recommendations and requests are as follows:

That the old section of the Dutchess County Jail, which was put into operation in 1932, be renovated by enlarging the kitchen facilities, installing a new laundry, and installing new and adequate heating equipment to service the present structure and the recommended addition; new electrical system and fixtures, new windows, tear out the cell area on the first, second and third floors, leaving the floors; convert the first floor into a recreational area; convert the second floor into necessary conference rooms, doctors office, dentist office, barber shop, library, hospital room, etc.; convert the third floor into dormitories. This area would accomodate at least a 30 bed dormitory, or, two- 15 bed dormitories, with expansion by using double bunks, if necessary. This area could be used for the intermittent sentenced people, the number of which is growing, and civil prisoners, and possibly trusted inside workers.

A new extension of the same size of the one which was erected in 1963 with a basement, ground floor, two floors of cells, which would be 40 in all, with space on the roof for an outside exercise area. The first and second floors would contain 20 regular cells each, and in the basement I recommend 10 detention, or segregation, cells. This would bring all security in one section.

The whole extension and renovation should be so constructed that all doors and entrances work electronically from a control point, and that all areas be under constant surveillance through closed circuit TV. The monitors would be installed in the control room.

Admissions Office space would have to be enlarged to accomodate these additions.

It would take at least 20 additional employees to handle this extension and the increased facilities.

In the women's section, it will be necessary to have at least 5 additional cells. This could be accomplished through renovation of facilities we now have.

I think it was also requested at the time of our last meeting that a recommendation in reference to salaries be made. I therefore recommend that the salary group for Jail Guard be changed from Group #9 to Group #11.

I feel that this recommendation is the minimum needs to make the Dutchess County Jail adequate to function under the requirements that exist at this time.

Hoping that these recommendations meet with your approval, I am,

Sincerely yours,

Lawrence M. Quinlan

LAWRENCE M. QUINLAN
Sheriff
Dutchess County

LMQ/lc

Rot.

AD

LETTER FROM LAWRENCE M. QUINLAN TO HON. CLAYTON CLEARWATER
DATED AUGUST 9, 1974 (pp. 55a-56a)

August 9, 1974

Hon. Clayton Clearwater
Dutchess County Board of Representatives
County Office Building
Poughkeepsie, New York

Dear Clayt:

I have submitted three other plans previous to this, and each time have modified my plans in hopes that something could get started quickly. There should be no question in anyones mind that the old section of the Dutchess County Jail must be renovated. I am presenting two plans at this time which I feel sure would adequately renovate this section of the jail.

Number one, the heating system would have to be reconstructed; the first floor would have renovation of cells from manual operation to an electronic system, new all metal toilet fixtures, new windows, air conditioning, closed circuit T.V. On the second floor there are two alternatives, either renovate it in same manner as the first floor, or remove the entire cell area but leave the guard corridor surrounding and make this an inside recreation area. Of course this would take away 34 cells and would necessitate an addition somewhere to make up at least part of this loss. The top floor, which consists of a conglomeration of small sections of cells and isolation rooms, this section is most inadequate and difficult to supervise. This floor should be completely gutted and new cell sections installed as on the first floor, with new windows, air conditioning, closed circuit T.V. I believe there could be built into this section at least 30 cells.

An additional plan is to build in the basement near the admissions office 5 isolation cells. This type of renovation, if the second floor was built into a recreation area, would provide 76 male cells. This would leave the need for some addition to the overall facility, however I believe this plan would relieve the immediate need. The space as I have allowed for on the second floor could be used as a dormitory in case of emergency or possibly could be so constructed that it would serve a dual purpose. Also to make up for the loss of cell space it is feasible that some minimum security facilities could be erected to handle mild cases.

If these suggestions are considered, I recommend that an architect along with a representative of a jail manufacturer be invited to check into the feasibility. I am sure this can be done without any cost. I have done business with the jail firm of

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George A. Keene, Inc., 1101 Niagara Falls Blvd., Buffalo, New York, and I know he would respond to a request to visit the facility and give his expert advice. This renovation would cost at least $500,000.00.

If the present increase in female population continues, there will be a need to expand this facility also. There is space to do so by utilizing what is now a conference room used by myself and my staff. This would provide about 3 or 4 more cells or rooms. This would be an additional cost.

Sincerely yours,

LAWRENCE M. QUINLAN
Sheriff
Dutchess County

LMQ/lc

DEFENDANT'S
EXHIBIT
U.S. DIST. CT. ...
S.D. OF N.Y.
P E ND

LETTER FROM LAWRENCE M. QUINLAN DATED MAY 16, 1974 (pp. 57a-59a)

LAWRENCE M. QUINLAN. SHERIFF
DUTCHESS COUNTY
150 N. HAMILTON STREET
POUGHKEEPSIE, N. Y.

ADDRESS ALL COMMUNICATIONS

PHONE 452-0400

May 16, 1974

Dear Judge:

I am sure that it is quite evident to you, after considerable controversy in the news media for the past several weeks, that we have a problem here at the Dutchess County Jail regarding space and adequate facilities for placing inmates in the proper classification, and/or to be able to segregate inmates when it becomes necessary.

I am sure that you are all aware; however, I will give you a quick run-down on the classifications that are necessary.

We must keep those under 21 years of age separate from those over 21. Technically, this must go to the extent that there is absolutely no contact.

We then have to segregate and classify the sentenced inmates under 21 from the unsentenced inmates under 21, and the same procedure applies.

We then have to classify and segregate the unsentenced inmates over 21 from the sentenced inmates over 21, and the same applies as far as contact in any way is concerned.

We then have to classify and segregate the weekend inmate or those who have received an intermittent sentence where perhaps they spend Saturday and Sunday, or only Saturday or Sunday, or some other day of the week.

We also have to classify and segregate civil prisoners. These, of course, I am sure you understand, are people who are arrested through civil proceedings when they have failed to comply with orders of the court, etc.

This gives us five classifications, and in addition to these set classifications, we constantly have people committed to the Dutchess County Jail who are suffering from mental illnesses or are of an imbicilic nature, and once they are committed and these indications become evident, it takes sometimes weeks to get the mentally ill or the imbicilic out of the County Jail and into the proper institution where they could be cared for. In these instances, it is necessary for us to keep these inmates separate from the entire population.

Then we have the other great threat which is that of homosexuals, both the aggressive and the consensual. As soon as we discover or determine that an inmate or inmates have these tendencies, there is a need for us to segregate these people as well.

However, due to the construction of the Dutchess County Jail, part of which is over 40 years old, we do not have space or facilities for carrying out these classifications and needs for segregation. As a matter of fact, we are unable to even carry out the one item absolutely, and that being to keep the sentenced and the unsentenced properly classified, and, in no way can we keep the various classifications of inmates from personal contact with one another.

It is difficult for one to understand what the complications are in the operation of a county jail. There is no other institution where people are held in custody for short, and in some instances, long periods of time, such as a year, that can be compared with the operation of a county jail. Other institutions take people of the same age group, and take people who have definite sentences and there is no traffic to and from court and to other places, such as in the county jail. They, therefore, do not have the mixture and conglomeration of different classifications and different types of people as we have to deal with in a county jail.

The purpose of this letter is to ask for your assistance as a Judge. There are many instances when people are sent to the county jail who have been convicted or pleaded guilty and their sentence may be a small fine, whey they do not have at that time. Or, they are committed to the Dutchess County Jail and maybe the very same day or night, they obtain their fine money and are released, or perhaps a day or two later.

I want you to understand that I am only suggesting. I think it would be a great relief for us here who have to administer the jail, if in cases such as this where the person is local, say for instance a Dutchess County resident, or reasonably local, as far as the State of New York is concerned, that the person rather than being sentenced to jail either be paroled in his own custody or paroled in someone elses custody; some member of the family or a friend, etc., and he be given time to bring into the court the fine money.

I do not recommend this, of course, for anyone who lives out of state or lives any distance away.

This would also apply to people who come before you in your court, and again, I am only suggesting, as I recall many instances when I was working as a Patrol Officer that on minor offenses where the fine or the sentence would ultimately be minor, that rather than commit the individual to the Dutchess County Jail to await an adjourned date for a week or three days, whatever it might be; that again if the individual is local and the offense or the crime is not of a serious nature, that he or she be paroled in someones' custody with instructions to appear back in the court on a certain date. I know many times this was done when, as I stated before, I worked as

a Patrol Officer and in many instances, I accepted the individual paroled to my custody. These instances might be few; however, I feel county-wide it would be sufficient to aid us in reducing our population, and reduce the great amount of administrative work that is required whenever a person is committed to the Dutchess County Jail.

I am sure that you realize that as soon as we receive the commitment from the court then we must go through the whole procedure, and many times there are people waiting with the bail or fine money by the time the inmate is brought to the Dutchess County Jail.

I want to emphasize that this letter is not in any way to tell you how to operate your court. It is more in the tone of a plea to you to assist me whenever you can in cutting down the number of people who are committed to the Dutchess County Jail.

Your assistance and consideration to my request will be greatly appreciated.

Sincerely yours,

Lawrence M. Quinlan

LAWRENCE M. QUINLAN
Sheriff
Dutchess County

LMQ/lc

60a

LETTER FROM LAWRENCE M. QUINLAN TO JAMES A. CALLAHAN
DATED JUNE 4, 1974

June 4, 1974

James A. Callahan
Chief of Police
City of Poughkeepsie
Police Department
Poughkeepsie, New York

Dear Chief:

As you no doubt know, we are having considerable difficulty here at the Dutchess County Jail with overcrowding, and there has been considerable controversy about what my needs are.

I am trying in every way to reduce the population and I am writing this letter to ask your assistance in this respect, that instead of sending your overnight hold-overs, or weekend people, or temporary hold-overs, to the Dutchess County Jail, that if possible, keep them in your city lock-up.

I am sure you realize that every time a person is brought to us by your department, that it means a tremendous amount of work; paper work, records, issuance of clothing, bedding, etc., and then if they are only held over night or for the weekend or a few hours, we have to go through all the work of releasing them, which is more paper work, re-issuing their civilian clothing and re-taking their jail clothing and bedding, etc. In all, it causes a tremendous amount of work and it adds greatly to our population and in many instances, these people that are brought in are extremely troublesome because of their drunken condition or mental condition.

I think in this respect you could be a great help to me in relieving, to some extent, my problem by utilizing your city lock-up.

If you have any question in reference to this, please feel free to contact me.

Sincerely yours,

LAWRENCE M. QUINLAN
Sheriff
Dutchess County

LMQ/lc

AH

61a

LETTER FROM LAWRENCE M. QUINLAN TO HON. WILLIAM BARTLETT
DATED JUNE 12, 1974

MEMBER
NATIONAL
SHERIFF'S
ASS'N

LAWRENCE M. QUINLAN, SHERIFF
DUTCHESS COUNTY
150 N. HAMILTON STREET
POUGHKEEPSIE, N. Y.

ADDRESS ALL COMMUNICATIONS
TO THE SHERIFF

PHONE 452-0400

June 12, 1974

Hon. William Bartlett
Chairman
Public Safety Committee
Board of Representatives
County Office Building
Poughkeepsie, New York

Dear Chairman:

It appears that there is not going to be any emergency installations at the Dutchess County Jail to take care of our need for space to segregate and classify inmates. Therefore, as suggested at the last meeting, which was attended by members of the Public Safety Committee and others, to compensate for the lack of any emergency expansion, I find it necessary to have additional jail employees.

I submitted to the County Executive in my projected budget for 1975, an item for an Administrative Assistant to be used for jail administration. Now, in addition to that position, I am asking your consideration, through the proper sources, to have four additional Guards for the Dutchess County Jail, and I think that in as much as I am going to have to depend upon the additional employees to be the temporary, partial answer to the need for extra space, that these positions should be created at once.

Your assistance and consideration in this matter will be greatly appreciated.

Very truly yours,

Lawrence M. Quinlan

LAWRENCE M. QUINLAN
Sheriff
Dutchess County

LMQ/lc

NOTICE OF MOTION FOR CONTEMPT DATED DECEMBER 8, 1975 62a
(pp. 62a-63a)

RECEIVED IN CHAMBERS
OF JUDGE HENRY F. WERKER
APR 13 1976

U.S. DISTRICT COURT
FILED
DEC 8 1975
S.D. OF N.Y.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

RAYMOND G. LASKY, et al., :

Plaintiffs, : 73 Civ. 1666 (HFW)

-against- : NOTICE OF MOTION FOR CONTEMPT

SHERIFF LAWRENCE M. QUINLAN, et al., :

Defendants. :

RECEIVED IN CHAMBERS
OF JUDGE HENRY F. WERKER
DEC 9 1975

- x

S I R S :

PLEASE TAKE NOTICE that upon the annexed affidavit of Jack P. Levin, sworn to December 8, 1975, plaintiffs will move this Court, Hon. Henry F. Werker, U.S.D.J., in Room 2904, United States Courthouse, Foley Square, New York, New York 10007 on the 2nd day of February, 1976, at [illegible] A.M. or as soon thereafter as counsel can be heard, for an order pursuant to 18 U.S.C. § 401 and Civil Rule 14 of this Court

(1) Adjudging the defendant Lawrence M. Quinlan to be in civil contempt of this Court's Order of July 30, 1973; and

(2) Compelling compliance with that Order; and

(3) Awarding to plaintiffs' counsel reasonable attorney's fees and the costs incurred in prosecuting this action; and

(4) Granting such other and further relief as may be just and proper.

Dated: New York, New York
December 8, 1975

JACK P. LEVIN
1 Chase Manhattan Plaza
New York, New York 10005
(212) 422-3400

Jack P. Levin

Attorney for Plaintiffs

(58)

TO:

JOHN M. KENNEDY
County Attorney
County Office Building
22 Market Street
Poughkeepsie, New York 12601

Attorney for Defendants

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

RAYMOND G. LASKY, et al., :

Plaintiffs, : 73 Civ. 1666 (HFW)

-against- :

SHERIFF LAWRENCE M. QUINLAN, et al., : AFFIDAVIT

Defendants. :

- x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

JACK P. LEVIN, being duly sworn, says:

1. I am a member of the Bar of this Court and counsel for the plaintiffs in this action. I make this affidavit in support of plaintiffs' motion for an order (1) adjudging the defendant Lawrence M. Quinlan (the "Sheriff") to be in civil contempt of this Court's Order of July 30, 1973, (2) compelling compliance with that Order, and (3) awarding to plaintiffs' counsel reasonable attorney's fees and the costs incurred in prosecuting this action.

HISTORY OF THIS ACTION

2. This action was commenced on April 16, 1973 by the filing of a pro se class action complaint by five inmates at the Dutchess County Jail, Poughkeepsie, New York. The complaint charges the Sheriff of Dutchess County and certain Jail personnel with violations of inmates' constitutional rights and violation of 42 U.S.C. § 1983.

Jurisdiction is invoked under 28 U.S.C. §§ 1331, 1343, 2201 and 42 U.S.C. § 1983. Injunctive and declaratory relief is sought.

3. Hon. Murray I. Gurfein, then a Judge of this Court, considered the factual allegations of the complaint serious enough to require the appointment of counsel and an evidentiary hearing. Such a hearing was held on July 2, 3, 5 and 6, 1973. The Court heard substantially uncontradicted testimony from plaintiffs, defendants and other defense witnesses which established that the Dutchess County Jail was being operated in violation of and in sometimes conscious disregard of Federal and New York law. Violations existed in the following areas: classification of inmates, inmate personal hygiene, health services, food, recreation, communication, reading materials, legal assistance, discipline and physical plant.

4. After visiting the Jail on July 13, 1973 Judge Gurfein suggested that counsel attempt to agree on improvements in conditions there. Plaintiffs' counsel drafted a document styled "Relief Requested" which, with minor modifications, became the Stipulation (annexed hereto as "Exhibit A") submitted to the Court.

5. On July 30, 1973 the Court issued an opinion (annexed hereto as "Exhibit B") approving the Stipulation and commending the "County officials . . . for their voluntary cooperation." In addition to approving the Stipulation the Court ordered

"the Sheriff to post currently, and to give to

> each inmate upon his admission, a copy of a new set of rules and regulations of the Dutchess County Jail consistent with the stipulation. These rules and regulations should be made available by September 1, 1973."

The Court also required that mail between inmates and plaintiffs' counsel be treated as "special correspondence" as defined in the Stipulation. The action was dismissed upon the filing of the Stipulation, "subject to reopening or the institution of contempt proceedings in the event of a wilful failure to comply with the aforementioned order of the Court."

6. Contempt proceedings have now become essential. The "voluntary cooperation" apparent in July 1973 has proved illusory. The terms of the Stipulation have in large part been unimplemented or violated. Compliance has been partial and intermittent and mostly the result of recent pressure from the New York State Commission of Correction (the "Commission"). The Sheriff has never contacted plaintiffs' counsel or the Court for the purpose of discussing the Stipulation or the conditions it was designed to improve. The Dutchess County Jail remains a lawless institution because of the Sheriff's overt and unyielding disregard of the rights of inmates and his demonstrated contempt for superior legal authority.

7. This motion for contempt is limited to the terms of the Stipulation, which incorporates by reference sections of the Minimum Standards and Regulations for Management of County Jails and Penitentiaries, 7 N.Y.C.R.R. §§ 5100.1 et seq. (the "Minimum Standards", attached hereto as "Exhibit C"). This affidavit is made on information and

belief except where personal knowledge is indicated. Each of the conditions described below constitutes a violation of this Court's 1973 Order. Proof of these conditions will show a pattern of persistent and wilful neglect by the Sheriff of Dutchess County.

CLASSIFICATION OF INMATES
(Stipulation, Paragraph 1)

8. There is no separation of inmates as required by law. Pre-trial detainees and unsentenced inmates mingle with sentenced inmates; minors mingle with adults. There is no system for separating inmates according to their tendency to do harm to others or to themselves.

INMATE PERSONAL HYGIENE
(Stipulation, Paragraph 2)

9. Clean and adequate linen and bedding are not regularly provided. Inmates have on occasion not even received a mattress upon admission. Neither linen nor clothing is always laundered weekly. When an inmate is discharged his bedding is not removed, checked and aired. A new inmate usually must use the bedding of the inmate who preceded him.

10. Upon admission inmates are usually not decontaminated or allowed to bathe. Showers are poorly maintained. Water may collect in the stalls and become stagnant. Shower walls are painted instead of being effectively cleaned. Hot water is often not available. Some showers are hazardously near electric wires and light fixtures. Necessary toilet articles such as shampoo, deodorant, soap, toothbrush and toothpaste are not regularly provided.

11. Women inmates are not decontaminated or required to bathe upon admission. Laundry facilities are not available for women inmates, who must launder their clothing by hand. They may bathe only once each week.

12. There are no arrangements to permit bathing and sufficient linen for inmates with work assignments. For example, inmates who work in the kitchen are not required to bathe before kitchen duty, nor are they provided with adequate linen or a proper uniform.

HEALTH SERVICES
(Stipulation, Paragraph 3)

13. One part-time physician, who is scheduled to make two visits to the Jail each week, is responsible for the delivery of health care to a Jail population sometimes exceeding one hundred twenty-five. Although the physician sometimes visits the Jail more often to deal with urgent inmate problems, he has at times not maintained the twice weekly schedule, most recently because of a dispute with the Sheriff's office concerning his salary.

14. The demands of other professional commitments, the poor facilities at the Jail and the Sheriff's failure to provide other health services prevent the physician from providing adequate health care to the inmates. He does not routinely examine every inmate in continuous custody at the Jail for 14 or more days. Medical files do not record in sufficient or consistent detail each medical visit or treatment. The files do not always note the dosage, frequency and time limit for administration of drugs prescribed by the physician.

15. Medications are not always stored or transported in a manner which ensures control by authorized personnel. Unusually large quantities of drugs are purchased by the Sheriff's Department for use in the Jail. The behavior of some inmates and the volume of these purchases suggest that some inmates are over-medicated and/or that drugs are being improperly diverted.

16. There is one, small, inadequate medical examination room, which has not changed significantly since this Court's 1973 Order. The equipment and supplies are severely limited, precluding effective treatment. There are no quarters for inmates who are too ill to remain safely in the general Jail population but who are not sufficiently ill to require hospitalization. There are no procedures for identifying inmates in need of hospital care and for transporting them to hospitals.

17. Little use is made of community health facilities, services and personnel. In spite of the recommendations of the Commission, the Dutchess County Department of Health and the Jail physician, there are no psychiatric or psychological services provided for inmates, many of whom desperately need and ask for such care.

18. Intoxicated inmates and inmates evidencing any illness or disorder requiring prompt medical attention are not usually examined by the Jail physician at the time of admission or as soon as possible thereafter. The same is true of inmates who exhibit suicidal or threatening behavior.

19. There are no facilities at the Jail for dental care. The current version of inmate rules and regulations (attached hereto as "Exhibit D") notes that dental care is

limited to emergencies. Yet an inmate may await trial for over a year. Treatment at the dentist's office is for the most part limited to extractions. Eye examinations and eyeglasses are not routinely provided for inmates who need them.

20. The quality and amount of medical and dental care, as with every service and privilege at the Jail, may vary significantly among inmates. Unsentenced inmates, those likely to remain briefly, and the weak and the timid simply get less.

21. Because all but the most minor medical problems must be treated outside the Jail, inmates either go untreated or must be transported. The transportation of inmates for medical reasons consumes many staff hours and large sums of money, money which could be used to provide decent care at the Jail. The Dutchess County Jail has no paramedic, no psychiatrist or psychologist and virtually no staff capable of administering modern lifesaving techniques. This situation is tolerated in a building housing pregnant women, alcoholics, drug addicts, diabetics, epileptics and people with various chronic conditions and where there are suicides, attempted suicides, beatings, homosexual rapes and drug abuse.

FOOD
(Stipulation, Paragraph 4)

22. Inspections of food service facilities at the Jail have been undertaken on the initiative of the Commission and the Dutchess County Department of Health, but only after notice to the Sheriff that an inspection was planned. This is contrary to sound inspection practice.

Yet even after the giving of notice, numerous deficiencies in the storage, preparation and handling of food have been found. The Dutchess County Department of Health has indicated that food services do not meet standards applicable to restaurants, which are lower than those necessary in a jail, where the health problems and living conditions of inmates pose hazards not found in the community.

23. Not all kitchen workers are given adequate physical examinations by the Jail physician, and examinations do not always take place prior to the beginning of kitchen duties. No examinations are given to inmates who serve food in the inmate housing areas, and no other precautions are taken with respect to food handling in those areas. The Commission has required all food service workers to be clothed daily in freshly-laundered white pants, shirts and hats. This basic health requirement has not been implemented.

24. Reports and recommendations by the Commission and by the Dutchess County Department of Health have been disregarded. The Sheriff has not committed himself to a schedule for compliance, and there has been no regular schedule for inspection of food service facilities by any competent authority.

25. Minimum nutritional standards have not been maintained for inmates who, for religious reasons, choose not to eat pork or pork products. Even for those inmates on regular diets the posted menu is often not adhered to, resulting in deterioration of an already inferior program of nutrition. There is no consistent civilian staff supervision of food services, nor is any competent person

involved in determining whether modern and accepted dietary requirements are met.

RECREATION
(Stipulation, Paragraph 5)

26. There is no opportunity for physical exercise within the Jail. Although an outdoor exercise area has been in existence for many months, there has never been a reasonable schedule allowing inmates access to the area. The outdoor exercise area is closed in cold weather months. There is virtually no opportunity for physical exercise of any sort by women inmates.

COMMUNICATION
(Stipulation, Paragraph 6)

27. Rules and regulations governing correspondence do not accurately reflect the Order of this Court. The handling of mail is arbitrary; a letter may linger at the Jailer's desk for days. Jail personnel have no written guidelines with respect to inmate correspondence. Obstacles to correspondence are ever-changing, and restrictions are not indicated to inmates in writing. No regular record is kept of letters sent and received by inmates.

28. Correspondence is routinely read for purposes not related to the security of the Jail, and the censorship process in some cases subjects inmates to improper comments and threats by Jail personnel. This chilling effect extends even to "special correspondence", which by law may not be read by Jail personnel, but which is routinely read where an inmate seeks the services of a notary public.

29. Inmates are not advised that they may make one free local telephone call upon admission to the Jail. As with other Jail privileges access to a telephone may

depend on the whim of the guard on duty. Telephone calls necessary to obtain counsel may be seriously obstructed.

READING MATERIALS
(Stipulation, Paragraph 7)

30. There is no written list of publications or other materials which inmates may not receive. Jail personnel censor all such incoming literature without guidelines. Inmates are not informed (in writing or otherwise) when materials have been censored and denied them, and such materials are not kept in a safe place and given to inmates upon their release. There is a limit on the number of publications which an inmate may receive.

LEGAL ASSISTANCE
(Stipulation, Paragraph 8)

31. The absence of procedures for allowing inmates telephone calls deprives inmates of prompt and effective legal assistance. There are very few books in the library pertaining to the law and no routine access by inmates to the library. Inmates are prohibited from consulting among one another to solicit or give legal assistance.

DISCIPLINE
(Stipulation, Paragraph 9)

32. The Jail physician does not make a daily examination of inmates who for disciplinary reasons are confined in a cell. Inmates have been deprived of clothing for reasons not related to their personal safety. Inmates have been compelled to occupy cells with non-functioning sinks and/or toilets. No weekly report is made to the Commission describing the condition of such inmates.

33. There is no procedure for the segregation and observation of inmates who need special treatment for a physical or mental condition or who need protection from other inmates. There is no procedure for the examination by a physician of inmates who appear to be violent or suicidal or for the removal of such inmates to facilities more appropriate for their care and supervision. Within the last year there have been suicides and attempted suicides by inmates, some of whom had been observed by Jail personnel to be individuals requiring "close watch".

34. For long periods over the last two and one half years there have been no written rules and regulations governing inmate rights and conduct, in spite of the Court's requirement that such rules and regulations be posted and distributed to inmates by September 1, 1973. Rules and regulations have been distributed to inmates only intermittently, have rarely been posted in inmate housing areas and are not consistently applied. Even the most recent rules and regulations submitted by the Sheriff to the Commission fail to comply with the Minimum Standards, the Commission's directives and the Stipulation.

35. There is a lack of active supervision of inmates, and rounds are often not made at required intervals. This is particularly serious in a building with insufficient fire proofing or fire resistant construction and where procedures have not been established for access and escape in the event of fire. A closed circuit television system, used to monitor inmate housing areas in lieu of sufficient physical supervision by guards, is inoperative.

36. Rules and regulations establishing standardized operating procedures for Jail personnel are outdated and have not been provided to some personnel, many of whom are even unaware that written procedures exist.

ALTERATIONS AND REPAIRS TO
PHYSICAL PLANT
(Stipulation, Paragraph 10)

37. No effort has been made to provide each cell with a light fixture sufficient to permit reading and writing without eye strain. Although the Sheriff agreed in the Stipulation to provide such fixtures, he and the Chief Jailer indicated as early as the Fall of 1973 that they never had any intention of installing such light fixtures. Such fixtures are available and in use at other jails and prisons.

38. The heating and ventilation systems of the Jail are inadequate, resulting in intense heat in warm weather and intense cold in cold weather. No reasonable effort has been made to improve those systems. Malfunctions in plumbing are not repaired efficiently, with the result that inmates must occupy cells without running water.

39. The Jail is not cleaned regularly. There are no procedures to ensure compliance with minimum sanitary standards, resulting in general filth and infestation. There are sometimes intensive clean-up efforts and painting, usually just prior to inspections by the Commission or the Department of Health.

IMPLEMENTATION
(Stipulation, Paragraph 11)

40. Although repeatedly asked to do so by plain-

tiffs' counsel, the Sheriff has never submitted for Court approval a plan for the improvement of health services, the operation of a recreation and exercise area and the completion of alterations and repairs to physical plant required by paragraphs 3, 5, 10 and 11 of the Stipulation.

COSTS AND ATTORNEY'S FEES

41. Local Civil Rule 14(a) of this Court provides, in part, that "A reasonable counsel fee, necessitated by the contempt proceeding, may be included as an item of damage." Since his appointment, plaintiffs' counsel has devoted well over 500 hours to this action and has disbursed monies necessary to its prosecution. Much of this effort has been required by the need to solve inmate problems arising from the Sheriff's disobedience of this Court's Order. An award of attorney's fees and costs is particularly appropriate in a case such as this, where the defendant's brazen evasion of the reforms he agreed to make has complicated and added to counsel's burden.

42. At the hearing on this contempt motion plaintiffs will demonstrate that the Sheriff has been well able to comply with the Stipulation and that his failure to do so has been wilful. At this time only coercive relief is sought. Plaintiffs' immediate and urgent plea is that the Court enforce its Order and end the Sheriff's neglect of the men and women whose welfare is his legal responsibility.

WHEREFORE, plaintiffs seek an order (1) adjudging the defendant Lawrence M. Quinlan to be in civil contempt of this Court's Order of July 30, 1973, (2) compelling compliance with that Order, and (3) awarding to plaintiffs' counsel reasonable attorney's fees and costs of this action.

Jack P. Levin

Sworn to before me this
8th day of December, 1975.

Mary O'Donnell

MARY O'DONNELL
Notary Public, State of New York
Qualified in Bronx County
No. 03-2942525
Certificate filed in N. Y. Co.
Commission expires March 30, 1977.

BEST COPY AVAILABLE

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- x

RAYMOND G. LASKY, et al., : 73 Civ. 1666 (HFW)

Plaintiffs, :

-against- :

SHERIFF LAWRENCE M. QUINLAN, et al., : AFFIDAVIT OF SERVICE BY MAIL

Defendants. :

- x

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

DEBORAH POOR, being duly sworn deposes and says that she is over the age of 21 years; that on the 8th day of December, 1975 she served the annexed Notice of Motion for Contempt and Memorandum of Law in Support of Plaintiffs' Motion for Contempt on:

John M. Kennedy, Esq.
County Attorney
Attorney for Defendants
County Office Building
22 Market Street
Poughkeepsie, New York 12601

by depositing a true copy of the same securely enclosed in a postpaid wrapper in a Post Office Box regularly maintained by the United States Postal Service at No. 1 Chase Manhattan Plaza in the City and County of New York, directed to said attorney at the address set out under his name; this being the address within the state designated by him for that purpose upon the preceding papers in this action.

Deborah Poor

Sworn to before me this
8th day of December, 1975.

Mary O'Donnell

MARY C'DONNELL
Notary Public, State of New York
Qualified in Bronx County
No. 03-2942525
Certificate filed in N. Y. Co.
Commission expires March 30, 1977

BEST COPY AVAILABLE

EXHIBITS ANNEXED TO FOREGOING AFFIDAVIT:

EXHIBIT A - STIPULATION

(Omitted here but printed at p. 27a)

EXHIBIT B - OPINION OF GURFEIN J. DATED JULY 30, 1973
APPROVING STIPULATION (pp. 80a-82a)

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

----------x

RAYMOND G. LASKY, et al,

Plaintiffs,

-against- 73 Civ. 1666

SHERIFF LAWRENCE QUINLIN, et al,

Defendants.

----------x

A P P E A R A N C E S

JACK P. LEVIN
FRANK S. MOSELEY
Attorneys for Plaintiffs
New York, N.Y.

JOHN KENNEDY
County Attorney, County of Dutchess
Attorney for Defendants
Poughkeepsie, N.Y.

GURFEIN, D. J.

This is a purported class action by a prisoner, Raymond G. Lasky and three other prisoners in the County Jail of Dutchess County against the Sheriff, the head jailer and other jailers alleging violations of various constitutional rights as well as a violation of 42 U.S.C. §1983. Jurisdiction is invoked under 28 U.S.C. §§1331, 1343, 2201 and 42 U.S.C. §1983. Only injunctive relief is sought.

In view of the outcome, it is unnecessary to detail the allegations of fact which were considered sufficiently serious to require an evidentiary hearing. Such a hearing was held on July 2, 5 and 6 at which inmates testified for the plaintiff and Sheriff Quinlin and jailers testified for the defendants. Thereafter, on July 13, the Court inspected the jail at Poughkeepsie, New York, in the company of counsel for each side and the Court Reporter.

As a result of the hearing and inspection, I am of the opinion that Sheriff Quinlin, Sergeant Farmer, the head jailkeeper, and their men run a generally acceptable institution in constitutional terms. I believed, however, that there was room for improvement in certain respects. As in most federal court-state administration confrontations, however, it is wiser to seek accommodation by agreement than by judicial order.

Accordingly, I suggested that assigned counsel for the prisoners and counsel for the Sheriff try to agree on improvements in prison conditions. Happily, they have done so. I have reviewed their stipulation and find it quite adequate. It reflects a fine spirit on the part of the County officials and they are to be commended for their voluntary cooperation.

In view of the stipulation attached hereto as Exhibit A, there is no need to declare this a class action, since I can find nothing substantial in a constitutional sense that is likely to be added because of a class determination.

I will order the Sheriff to post currently, and to give/a copy of a new set of rules and regulations of the Dutchess County Jail consistent with the stipulation. These rules and regulations should be made available by September 1, 1973.

The action is dismissed upon the stipulation being filed, subject to reopening or the institution of contempt proceedings in the event of a wilful failure to comply with the aforementioned order of the Court.

No other order is required at this time, but assigned counsel may request a right of visitation at some time in the future. They may, in the meantime, communicate by mail with inmates as "special correspondence" under the conditions provided in the order.

Assigned counsel Jack P. Levin and Frank S. Hoseley are commended for their excellent and painstaking representation in the best traditions of the Bar. The Court is also grateful to Davis, Polk & Wardwell, Esqs., for permitting their associates to serve without compensation.

M. I. GOLDMAN

U.S.D.J.

Dated: July 30, 1973.

EXHIBIT C - MINIMUM STANDARDS AND REGULATIONS FOR MANAGEMENT OF COUNTY JAILS AND PENITENTIARIES (pp. 83a-99a)

SUBCHAPTER A

Minimum Standards and Regulations for Management of County Jails and Penitentiaries

PART

5100 Minimum Standards and Regulations
5101 Implementation and Operation of Treatment Programs

PART 5100

MINIMUM STANDARDS AND REGULATIONS

(Statutory authority: Correction Law, art. 3, § 46, par. 7a, as amd. by L. 1965, ch. 706 and L. 1966, ch. 413)

Sec.

5100.1 Legal authority
5100.2 Construction and renovation
5100.3 Admissions—discharges
5100.4 Security and supervision
5100.5 Correspondence
5100.6 Prisoner personal hygiene
5100.7 Discipline
5100.8 Good behavior allowances against definite sentences
5100.9 Visits
5100.10 Food services
5100.11 Health services
5100.12 Prisoner employment
5100.13 Work release
5100.14 Classification of prisoners
5100.15 Sentence of intermittent imprisonment
5100.16 Sanitation
5100.17 Commissary
5100.18 Personnel standards
5100.19 Records
5100.20 Gifts or gratuities
5100.21 Conditional release (local parole)
5100.22 Privileged or "trusty" prisoners
5100.23 Unusual incidents

Historical Note

Part (§§ 5100.1—5100.27) added by renum. former Part 100 (§§ 100.1—100.27), filed Sept. 24, 1970; repealed, new Part 5100 (§§ 5100.1—5100.23) added, filed Sept. 25, 1972 eff. Sept. 25, 1972.

Section 5100.1 Legal authority. (a) Article XVII, section 5, of the New York State Constitution provides that there shall be a State Commission of Correction which shall visit and inspect all institutions used for the detention of sane adults charged with or convicted of crime.

(b) Article 3, section 46, of the New York State Correction Law defines the following as basic functions of the State Commission of Correction:

(1) Promulgate rules and regulations establishing minimum standards for the care, custody, correctional treatment, supervision, discipline and other correctional programs for all persons confined in local correctional institutions. (*Note:* As used in this statute, the term "local correctional institution" means any county penitentiary, county jail, city jail, court detention pen, hospital prison ward, or town, village or county lockup.)

(2) Aid in securing humane and economic administration and best sanitary conditions of the institutions subject to inspection.

(3) Investigate their management and conduct of their officials.

(4) Approve or reject plans for construction or renovation.

(5) Collect statistical information with respect to the inmates.

(6) Close any of the facilities subject to inspection which are unsafe, unsanitary or inadequate to provide for the separation and classification of prisoners as required by law or which has not adhered to or complied with the rules and regulations promulgated by the commission.

(c) Article 3, section 47, of the Correction Law provides that any sheriff, super-

intendent, officer or employee of an institution subject to inspection by the State Commission of Correction who shall refuse or cause admission to be refused to any member, officer or inspector of the commission for the purpose of visitation and inspection, or who shall refuse or neglect to furnish the information required by the commission or by any of its members, officers or inspectors, shall be guilty of a misdemeanor.

(d) On or before the first day of February of each year, each sheriff, superintendent, commissioner, or other officer in charge of a county jail or county penitentiary shall submit a statistical report containing data with respect to prisoners received and discharged during the preceding calendar year. Forms on which such data is to be reported will be forwarded by the commission at the appropriate time. (See Correction Law, art. 3, § 50.)

Historical Note

Sec. added by renum. former sec. 100.1, filed Sept. 25, 1972 eff. Sept. 25, 1972. filed Sept. 24, 1970; repealed, new added,

5100.2 Construction and renovation. (a) Correction Law, section 46, subdivision 3, requires that any plans and specifications for the construction or renovation of detention facilities must be submitted for review to the State Commission of Correction.

(b) Approval of the commission must be obtained before a construction or renovation project is advertised for bids. If it is not contemplated that a bidding procedure is to be followed, approval must be obtained before any construction or renovation is undertaken.

(c) Information as to general requirements to be observed in the construction or renovation of county jails and county penitentiaries is available and will be provided on request to the commission office at Albany.

Historical Note

Sec. added by renum. former sec. 100.2, filed Sept. 25, 1972 eff. Sept. 25, 1972. filed Sept. 24, 1970; repealed, new added,

5100.3 Admissions—discharges. (a) It is the responsibility of the receiving officer to insure that each prisoner received has been committed in accord with proper legal authority. The commitment itself or other document presented shall be carefully scrutinized and the prisoner shall be questioned to establish that he or she is, in fact, the person named therein.

(b) On arrival at the place of detention, each prisoner shall be informed that he is allowed to make, without charge, one local telephone call to communicate with an attorney, a family member or relative, an employer, etc. Requests to place additional local calls and those of a long distance nature shall be decided on an individual basis consistent with the prisoner's situation, funds in his possession and, with respect to long distance calls, the possibility of reversing toll charges or otherwise having the prisoner make reimbursement for same. Telephone calls should be supervised and preferably made from an area where proper security and any necessary privacy can be maintained.

(c) Before being admitted to a cell section or detention room within the security area of the county jail or county penitentiary, the person and clothing of each prisoner shall be thoroughly searched; (body and clothing searches of a female prisoner shall be accomplished only by the duly appointed matron).

(d) An accurate listing shall be made of all money, and personal property items such as rings, watches, wallets, etc. taken at the time of admission, such list to be properly signed by the prisoner and witnessed by the receiving officer.

(e) At the time of discharge, a receipt signed by the prisoner and witnessed

by a duly authorized representative of the sheriff in the case of a county jail or the officer in charge of a county penitentiary shall be obtained, the prisoner acknowledging that all money due him and personal property items have been returned.

(f) Positive identification of a prisoner shall also be established prior to discharge on expiration of sentence, or release in custody to other authority, etc. A suitable body receipt shall be obtained and kept on file in all applicable instances.

(g) No prisoner shall be discharged, released in custody to other authorities, or otherwise let out of a county jail or a county penitentiary without lawful authority.

Note: The Attorney General, State of New York, has rendered an opinion that "lawful authority" as provided in Correction Law, section 500-c, means the authority given by an order made or granted by a court or judge having competent jurisdiction and that the only exception thereto is the authority conferred on a board of supervisors or similar county unit or the county judge of a particular county, as defined in Correction Law, section 500-d.

Historical Note

Sec. added by renum. former sec. 100.3, filed Sept. 24, 1970; repealed, new added filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.4 Security and supervision. (a) There shall be a minimum of two custodial staff officers on active duty in the county jail or county penitentiary at all times.

(b) Separate physical prisoner population counts which shall be properly recorded, shall be taken at least three times daily or more frequently depending on the number of tours of duty. Both the staff person or persons being relieved and the staff persons coming on duty shall certify the population count record to be correct by affixing their signatures thereto. A daily master population count record shall also be maintained, to be certified as correct by the officer in charge each time such master population count is taken, by affixing his signature thereto.

(c) Active supervision shall be provided in the prisoner housing areas at all times when prisoners are not secured in individual cells or detention rooms, or dormitories.

(d) If a detention facility is located in a structure which is not of fireproof or fire-resistant construction and where a fire hazard of extensive proportions exists, constant and active supervision shall be provided.

(e) During all times that prisoners are secured in individual cells or detention rooms or dormitories, supervisory visits shall be made thereto at intervals not to exceed one hour.

(f) In situations where a prisoner's physical or mental condition obviously warrants it, constant observation and supervision is required.

(g) The use of closed circuit television to visually monitor an area in which prisoners are detained is approved only as an adjunct to actual physical supervisory visits by custodial personnel and shall not be construed as a substitute for such visits.

(h) A suitable written record of supervisory visits shall be maintained in a legible manner and shall include but shall not necessarily be limited to the following information:

(1) Date.

(2) Time of each visit.

(3) Notations considered relevant.

(4) Signature of officer(s) or matron(s) concerned.

(i) The use of a mechanical-electrical recording device such as a watchman's clock system shall not obviate the requirement that a written record of supervisory visits is to be maintained as outlined in subdivision (h) of this section.

(j) A definite procedure should be formulated in advance to be followed by all staff personnel in the event of an escape or riot; should it be necessary to evacuate the detention facility due to an emergency situation created by a power failure, fire, flood, or receipt of a bomb threat; or to house an unusually large and unexpected intake of persons arrested during a civil disorder, raids by police authorities, etc.

(k) A matron, or matrons, for each county jail and county penitentiary shall be designated and available when such services are required. Under the direction of the official in charge, the matron shall have immediate responsibility for conduct of the department for female prisoners. The key(s) to the department for female prisoners shall be in possession of the matron at all times and no other person, male or female, shall be permitted to enter the department for female prisoners unless accompanied by the matron. At least one matron shall be in attendance at all times when female prisoners are detained. The serving of meals to female prisoners shall be under the matron's supervision and she shall also attend all visits to or consultations with female prisoners. (*Note:* See County Law, § 652, relative matrons in county jails.)

(l) Under no circumstances, in connection with standardizing operating procedures, shall any person while in possession of a firearm and/or "live" ammunition, enter a detention or security area of a county jail or a county penitentiary, or be present in any building or grounds area where contact with prisoners is a possibility. Suitable arrangements shall be made which will insure that both firearms and "live" ammunition carried into a county jail or a county penitentiary by any person duly authorized to be in possession of same, can be immediately deposited with institution officials and thereafter kept in a secure location at all times until the individual concerned is ready to depart from the facility.

(m) Locks and locking devices shall be tested regularly to provide for the optimum of proper operation; roof vents, bar-grilles, security windows and security screens shall be checked frequently to insure that they have not been tampered with.

(n) Cells, detention rooms, dormitories, infirmaries, hospital rooms, isolation rooms and cells and all other areas where prisoners are housed or assigned to work details shall be searched at frequent, irregular intervals.

(o) Prisoners shall be permitted an outdoor ground level or a roof exercise area only when direct supervision is provided; such exercise areas shall be thoroughly searched before and after each time they are used by prisoners.

(p) Prisoners going to or returning from a congregate dining area or a group activity shall be under direct supervision and their persons shall be searched at frequent, irregular intervals to preclude possession of or introduction of contraband items or other breaches of discipline or institution rules and regulations.

(q) As a precautionary measure, it is advisable to obtain, at the time of admission, a sample of each prisoner's handwriting and printing, to be retained for such future use as may be deemed necessary and proper.

(r) It is recommended that liaison be established with civil defense organizations, local police and fire departments, rescue squads, military establishments, or other accredited disaster or riot aid units, and definite arrangements made so that the resources of such units can be immediately utilized, if required. Arrangements should also be made for periodic inspections by representatives of a fire department, fire underwriters, etc. in an effort to eliminate hazards of a structural or procedural

nature which could adversely affect the health and general welfare of staff persons or prisoners.

(s) Rules and regulations governing facility standardized operating procedures should be formulated and a printed, numbered copy furnished each staff person who should be required to acknowledge receipt of same in writing.

Historical Note

Sec. added by renum. former sec. 100.4, filed Sept. 24, 1970; repealed, new added, filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.5 Correspondence. All incoming and outgoing correspondence, except that designated as "special correspondence" may be read by designated personnel of the jail or penitentiary to protect the safety and security of the facility and the welfare and best interests of the prisoners. In the discretion of the officials in charge, prisoners may be required to sign an authorization permitting them to open and inspect all incoming and outgoing mail. In the event such authorization is refused by the prisoner, officials may decline to mail outgoing letters or accept correspondence from the postal authorities where it is apparent that there exists a clear and present danger to the jail or penitentiary. Correspondence shall be subject to the following regulations:

(a) An official inspection stamp shall be placed on the stationery of both incoming and outgoing letters, containing the name of the jail or penitentiary, date and initials of the designated employee who inspected the correspondence.

(b) Prisoners may write outgoing letters only on county-issued or other authorized stationery.

(c) A record shall be kept indicating the name of the prisoner, date on which and from whom all incoming letters were received, and name of the prisoner, the date and to whom all outgoing letters are dispatched.

(d) At least one outgoing letter per week shall be allowed with postage provided at county expense. Additional letters may be allowed at the discretion of the officials and at the prisoner's expense. It is recommended that authorized stationery for outgoing letters be the type which can be enclosed and forwarded in a "window" envelope which precludes issuing envelopes to prisoners and provides for more efficient processing.

(e) Postage stamps shall not be permitted in the cells or cell sections and cancelled stamps and envelope flaps should preferably be removed from envelopes of incoming mail prior to delivery to prisoners.

(f) Special correspondence shall be permitted to the President of the United States, the Governor of the State of New York, members of the New York State Legislature, The New York State Commission of Correction, the Chairman of the New York State Parole Board, and to any attorney or any court. Outgoing special correspondence may be examined in the presence of the prisoner to insure absence of contraband prior to mailing but shall not be read or censored. Incoming special correspondence shall be opened and inspected for contraband in the presence of the prisoner but shall not be read or censored. (To censor means to entirely withhold or to delete some or all of the contents of a letter.)

Historical Note

Sec. added by renum. former sec. 100.5, filed Sept. 24, 1970; repealed, new added, filed Sept. 25, 1972 eff. Sept. 25, 1972.

Decisions

1. Applicability to pretrial detainees

Application for writ of habeas corpus, made by defendant being held in county jail pending trial, who argued that rights of pretrial detainee are violated when he is treated in same manner as convicted prisoner, denied. While restraints imposed upon pretrial detainee in excess of those reasonably related to purpose of his confinement, i.e. assuring attendance at trial, which is legitimate State interest constitute deprivation of due process, the conditions under which this defendant is confined and regulations (e.g. 7 NYCRR 5100.5) to which he is subject do not constitute such unreasonable encroachment on his protected freedoms as to render his detention unconstitutional or otherwise illegal. *People* v. *Von Dieneiski*, 78 Misc 2d 69 (1974).

5100.6 Prisoner personal hygiene. (a) On admission, each prisoner should receive a clean towel, two clean blankets (depending on the season of the year), two clean sheets, one clean pillow and one clean pillow case. It is urged that prisoners be provided with a clean issue of institutional clothing items or uniform including a shirt, trousers and washable canvas or similar type footwear. Personal clothing items should be checked and, if necessary, should be cleaned prior to storage or if they are to be worn by the prisoner during detention. White goods and institutional clothing should be exchanged at least weekly, and blankets, mattresses and pillows checked and aired frequently. All bedding including pillow and mattress should be removed from the housing area when a prisoner is discharged, carefully checked, and not reissued until laundered, cleaned or repaired as may be necessary. If practical and feasible, the practice of permitting prisoners to launder clothing items in the housing area should be prohibited but if absolutely necessary should be carefully controlled. If the laundering and cleaning facilities of the detention facility are not adequate, arrangements can be made for processing by a commercial firm, including the exchange of white goods and institutional clothing items or uniform.

(b) Each prisoner should be required to bathe immediately on admission and where his or her physical condition permits, each prisoner should be encouraged to bathe daily, but bathing for all prisoners should be required at least weekly, as a minimum. Arrangements should also be made to permit bathing as necessary and consistent with a prisoner's individual work assignment, e.g., kitchen-dining room, bakery, power plant, etc. Hot water should be available at all times in showers. Health and hygiene items such as soap, razors, toothbrush and toothpaste should be furnished to all prisoners as needed, and arrangements made for prisoners to obtain other necessary toilet articles such as hair shampoo, deodorants, after-shave lotion, etc., as approved by officials.

(c) The wearing of beards, mustaches and sideburns by male prisoners and the hair styles of both male and female prisoners are governed by such factors as proper security, sanitation and prisoner identification, and the prevailing modes in society generally and the community in which the prisoner resides. Considering these factors, each sheriff or official in charge shall set standards for the facility under his jurisdiction so as to insure that they cannot be construed as discriminatory, arbitrary or capricious in that they shall apply equally to all prisoners. The use of a psychiatric type or similar lock-type razor which provides for proper control of razor blades by officials is urged. If budgetary allotments are adequate, haircutting should be accomplished by a properly qualified or licensed barber but otherwise the services of a staff member or a prisoner with necessary skills in the use of barber tools may be utilized. Haircutting, hair styling and shaving should be accomplished in conformance with accepted sanitary standards and preferably under the supervision of staff employees.

Historical Note

Sec. added by renum. former sec. 100.6, filed Sept. 24, 1970; repealed, new added, filed Sept. 25, 1972 eff. Sept. 25, 1972.

Decisions

1. **Applicability to prisoner awaiting trial**

Held that a rule of the State Commissioner of Correction (7 NYCRR 5100.10 [cf. 5100.6]) requiring prisoners to shave and not be long haired had no relation to plaintiff, a prisoner awaiting trial, absent a showing that the shearing of an unconvicted person's beard or moustache is relevant to the promotion of good discipline and morale among the inmates of the jail. *Christman* v. *Skinner*, 67 Misc 2d 232 (1971), appeal dismd. 38 AD 2d 884 (1972).

Held that a follower of the Islamic faith who is in jail awaiting trial may not be put in solitary confinement for refusing to shave his beard as required by the standards adopted by the Commissioner of Correction (7 NYCRR 100.13 [cf. 5100.6]), when in the same jail an Orthodox Jew seeking to retain his beard would not be so confined. Under the circumstances such action is constitutionally invalid discrimination. *People ex rel. Rockey* v. *Krueger*, 62 Misc 2d 135 (1969).

2. **Applicability to "weekend" prisoner**

Complaint by prisoner serving sentence on "weekends" seeking injunction to prevent cutting of his long hair and beard pursuant to a regulation promulgated by the New York State Commission of Correction (7 NYCRR 5100.13 [e] [cf. 5100.6]) dismissed with leave to amend so as to set forth, if such be the case, a pattern of invidious discrimination. *Zeigler* v. *Riley*, 67 Misc 2d 82 (1971), affd. 38 AD 2d 685 (1971), affd. 30 NY 2d 617 (1972).

5100.7 Discipline. [Additional statutory authority: Correction Law, § 48]

(a) *General policies on discipline of prisoners.* (1) Discipline means a standard of conduct with reasonable regulation of everyday life so that a detention facility can be an orderly, self-respecting community.

(2) It is the duty of the administrator of a county penitentiary or a county jail to insure that all prisoners are treated humanely, that proper discipline is maintained, and that rules for conduct of prisoners and the administration of such rules are established in writing.

(3) Disciplinary action is one of many essentials in correctional treatment. When applied reasonably and with fairness, it not only assists in protection of the health, safety and security of all persons within a penal facility, but is also a positive factor in the rehabilitation of prisoners and the morale of the facility.

(4) Well-designed and administered discipline contributes significantly to the prevention of disturbances. It provides for fair and just treatment, for an opportunity for prisoners to air their grievances to the proper authority with the knowledge that, if justified, grievances will be resolved, and for the effective supervision and/or segregation of those prisoners who demonstrate a clear and potential danger to the health, safety and welfare of those in the facility or to its orderly operation.

(5) Corporal punishment of any nature is strictly prohibited. No officer or employee shall inflict any blows whatsoever upon any prisoner or use physical force unless in self defense, to effect detention or, as necessary, to suppress a riot or disturbance and protect the prisoners or employees.

(6) So-called "kangaroo courts" or similar prisoner activities by which prisoners themselves assume authority to assess or impose punishment on other prisoners who do not conform to self-imposed regulations, shall not be tolerated and the utmost vigilance shall be exercised to prevent such activities.

(b) *Interpretations.* (1) Administrative segregation shall consist of any cell or room, either in regular population areas or in a special housing unit, in which a prisoner is continuously confined for administrative reasons, other than disciplinary, for the purpose of providing proper care and close supervision. Administrative segregation may be imposed for medical reasons, deviant behavior, or in accordance with reception procedures. Rooms or cells used for administrative segregation shall, unless restricted by the administrator of the facility for reasons dictated by the circumstances of each case, be fully equipped in accord with housing in the general population and the prisoner shall have access to the same services and privileges.

(2) Punitive segregation shall consist of any cell or room, either in the general population area or in a special housing unit, in which a prisoner is confined for a specific period of time as a sanction or partial sanction for violation of rules. As a minimum, each such cell or room shall be equipped with the basic necessities such as sanitary fixtures, a regulation bed or bunk, adequate blankets, towel, soap and toilet paper, and the prisoner shall be provided a regular diet.

(3) Nothing in this section shall be construed to prevent a prisoner being immediately confined to a cell or room (administrative segregation) if an employee has reasonable grounds to believe that the prisoner represents an immediate danger to himself or other persons or property or constitutes a threat to the safety, security or order of the facility. Under these circumstances, a prisoner may not be kept in such confinement for more than 24 hours. Within that time he:

(i) Must be released with written notice by the employee to the administrator of the facility, or

(ii) Must be the subject of a disciplinary report by the employee as provided for in subdivision (c) of this section, or

(iii) Must be the subject of a written recommendation by the employee to the administrator of the facility for administrative segregation.

(c) *Procedures for the administration of discipline.* (1) A list of rules and regulations governing prisoner conduct and containing standardized operating procedures which relate thereto shall be promulgated and a copy shall be prominently posted in each prisoner housing area. Each prisoner shall be provided with a legible copy of such rules and regulations upon his reception and shall be required to acknowledge, in writing, receipt of them.

(2) Reports of rule infractions by prisoners which may result in such sanctions as segregation, loss of good time allowances, or suspension of privileges, shall be made in writing by the staff person observing same or having belief or information that such infraction has occurred.

(3) The written report shall include the specification of the particulars of the incident or behavior involved and the date, time and place of occurrence. If two or more incidents are involved, all may be incorporated in a single report but each must be separately stated.

(4) Each report shall be submitted immediately to the administrator of the facility or to such other official as may have been designated by the administrator, and the prisoner shall receive written notice of the charge and the evidence upon which such charge is based.

(5) The administrator or the individual or group of individuals designated by the administrator of the facility to review the report shall have no previous knowledge of the facts or circumstances surrounding the rule infraction and shall without unnecessary delay:

(i) Bring the prisoner who is the subject of the report before such person(s).

(ii) Notify the prisoner of the alleged infraction(s) and verify that the prisoner has received written notification of the charge as provided under paragraph (4) of this subdivision.

(iii) Provide the prisoner with an opportunity to explain his behavior and any mitigating circumstances.

(iv) In the event that the person(s) responsible for conducting the hearing desires further information, or upon the reasonable request of the prisoner involved, he shall make further inquiry into the circumstances of the incident either personally or through assignment to an official other than the individual(s) submitting the report.

(v) If it is determined that a violation of rules has occurred, the action to be taken by the official(s) responsible for conducting the hearing shall be based upon an evaluation of the prisoner's attitude and overall adjustment to the discipline and order required in the facility as well as upon an evaluation of the facts and circumstances of the incident(s) reported.

(vi) The person(s) responsible for conducting the hearing shall point out the elements of the prisoner's behavior or attitude that is deemed unsatisfactory.

(6) When the person(s) responsible for conducting the hearing decides that sanctions are to be imposed, he may impose one or more of the following:

(i) Loss of one or more specified privileges for a specified period of time not to exceed 14 days.

(ii) Confinement to his cell or room for certain days or during certain hours for a specified period of time not to exceed 14 days. (punitive segregation)

(iii) If a prisoner's behavior is such that his presence in the general population is disruptive to order and discipline in the housing area, he may be confined in a special housing unit for a specified period not to exceed seven days (punitive segregation).

(iv) Loss of a specified portion of good behavior allowance ("good time") which may be subject to a restoration and in accordance with section 5100.8 of this Part.

(v) Restitution for intentional damage to public property.

(7) The disposition of each hearing shall be reviewed and endorsed by the chief administrative officer having authority over the facility.

(8) The disposition shall be recorded in the prisoner's file and hearing log of the facility. The hearing log shall include, but not necessarily be limited to:

(i) Date (in chronological sequence).

(ii) Name of prisoner.

(iii) Nature of the infraction(s) specified in the disciplinary report.

(iv) Prisoner's explanation of the charge(s).

(v) Findings on the charge(s).

(vi) Disposition of each charge.

Historical Note

Sec. added by renum. former sec. 100.7, filed Sept. 24, 1970; repealed, new added, filed Sept. 25, 1972; amd. filed Nov. 1, 1974 eff. Nov. 15, 1974.

Decisions

1. Prisons and prisoners—rights to hearing on charges

Held that prisoner who was placed in "special services cell" for nine days, and who was adjudged guilty of unspecified charges at proceeding during which no testimony was taken nor other evidence adduced, which resulted in forfeiture of 30 days' good time, was not accorded minimal requirements of due process. Persons confined to penal institutions upon service of sentences are not totally without the protections which apply generally to other citizens. Therefore, pending proper evidentiary hearing, petitioner returned to general prison population and forfeiture of 30 days' good time vacated. *People ex rel. Hodges v. Meyer*, 77 Misc 2d 1006 (1974).

5100.8 Good behavior allowances against definite sentences. (a) Every person confined in a county jail or county penitentiary serving a definite sentence of imprisonment may receive time allowances as discretionary reductions of the term of sentence, as provided by law. (Penal Law, § 70.30, 4 (b); Correction Law, art. 24, § 804.)

(b) *Record keeping rules and regulations—good behavior allowances.*

(1) In conjunction with the maintenance of other records and accounts as required by law, a written record shall be kept of every person confined in a county jail or a county penitentiary who may be eligible to receive a discretionary reduction of a definite sentence or sentences by reason of the application of good behavior allowances.

(2) The record shall indicate the manner in which the discretionary good behavior allowances were calculated and applied to the term of the sentence or sentences imposed by the court, to establish the date of discharge.

(3) Whenever such good behavior allowances or any part thereof is withheld, forfeited or cancelled in whole or in part or whenever such good behavior allowance or any part thereof is restored, a notation to that effect shall be entered in the record with a suitable explanation for the action taken.

(4) Upon commencement of any definite sentence the provisions of this section shall be furnished to the inmate serving the sentence and the meaning of same shall be fully explained by an officer designated for such purpose, and such inmate shall be required to acknowledge in writing that such explanation was made.

(5) The information required to be maintained by this section shall be a public record. It shall be kept on file in each county jail and county penitentiary and shall be delivered to the succeeding officer, by the officer in charge.

Historical Note

Sec. added by renum. former sec. 100.8, filed Sept. 24, 1970; repealed, new added, filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.9 Visits. (a) Correction Law, section 500-j, provides that visits may be made to county jails and workhouses, at pleasure, by the Governor, Lieutenant Governor, Secretary of State, Comptroller, Attorney General, members of the State Legislature, judges of the State Court of Appeals, justices of the Supreme Court and the County Court judges, district attorneys, and every minister of the gospel having charge of a congregation located in the town in which the jail or workhouse is situated.

(b) Any prisoner shall be permitted to converse confidentially with his counsel or religious advisor under such reasonable rules and regulations as the officials in charge may prescribe.

(c) The sheriff, in the case of a county jail and the official in charge of a county penitentiary shall prescribe regulations relative to visits by others than those individuals specifically authorized by statute.

(d) A written record shall be maintained to include, as a minimum, the date, name of prisoner, the name, address and relationship of visitor, with provision for any other data considered proper as regards the visiting procedure.

(e) Visits and visitors shall be supervised in a manner consistent with proper decorum and the security of the facility; prior to and at the termination of each visiting period, a careful search shall be made of booths and any other areas utilized for visits; a particular search procedure shall be followed and the persons and clothing of prisoners checked when visits are held in other than a visiting booth.

Historical Note

Sec. added by renum. former sec. 100.9, filed Sept. 25, 1972 eff. Sept. 25, 1972. filed Sept. 24, 1970; repealed, new added.

5100.10 Food services. (a) Prisoners shall be provided with a sufficient quantity of wholesome food at county expense and preferably, three meals prepared by and/or under the direction of civilian staff personnel shall be served each day; every effort shall be made to provide a menu which will insure the variety of meals essential in a detention situation and which is in keeping with modern and accepted dietary requirements.

(b) Prior to assignment of any work detail which is related to the storage, preparation or service of foodstuffs or as dishwashers or other janitorial duties in a storeroom, kitchen or dining room area, the prisoner shall be examined and certified as to proper health condition by the physician, a copy of such certification to be kept on file at the facility.

(c) A copy of the menu(s) used shall be kept on file or a written record of items served at meals shall be maintained.

(d) A sample of the various items served at meals shall be stored, under proper refrigerating conditions, for a period of 72 hours, to be available for medical analysis in the event of an incidence of prisoner illness which could be related to food consumption.

Historical Note

Sec. added by renum. former sec. 100.10, repealed, new added, filed Sept. 25, 1972 eff. filed Sept. 24, 1970; amd. filed June 6, 1972; Sept. 25, 1972.

5100.11 Health services. (a) The county legislature, board of supervisors or similar county governing unit shall appoint a properly registered physician for the county jail and/or county penitentiary. (*Note:* See Correction Law, § 501, relative [to] appointment of physician to a county jail.)

(b) Each prisoner should be examined by the physician at the time of admission or as soon thereafter as possible and, preferably, no prisoner should be placed

in a regular housing area or allowed to be in physical contact with other prisoners until such examination has been completed. Every prisoner admitted on a charge of public intoxication should be examined by the physician. (*Note:* Experience has firmly established that an alcoholic odor emanating from a prisoner can obscure a serious physical deficiency such as narcotic drug addiction, stroke, diabetic coma, heart attack, etc., or an abnormal mental condition.)

(c) No medication or medical treatment shall be given to a prisoner unless authorized or prescribed by the duly appointed facility physician.

(d) All medications shall be stored in a secure manner to insure control by authorized personnel. If it is considered that a supply of narcotic drugs, barbiturates, amphetamines or similarly sensitive or potentially dangerous drugs is to be kept at the county jail or county penitentiary, particularly secure storage facilities and adequate records of dispensing including a perpetual inventory record are required.

(e) To the extent possible, facility personnel should receive training in approved first aid and emergency life saving techniques including the use of emergency equipment, e.g., pulmotor, resuscitator, etc.

(f) Definite arrangements shall be made which will insure the prompt transportation of a prisoner to a hospital in emergency situations and provide the necessary supervision by duly authorized facility personnel during the period of hospitalization. (*Note:* See Correction Law, section 508, regarding removal to a hospital of a prisoner while confined in a county jail.)

(g) Maximum use should be made of community medical and mental health facilities, services and personnel.

(h) Adequate health service and medical records shall be maintained which shall include but shall not necessarily be limited to such data as: date, name(s) of prisoner(s) concerned, diagnosis of complaint, medication and/or treatment prescribed; a record shall also be maintained of medication prescribed by the physician and dispensed to a prisoner by a staff person; under no circumstances shall a supply of medicine or medication be issued to or allowed to be in the possession of a prisoner.

Historical Note

Sec. added by renum. former sec. 100.11, filed Sept. 24, 1970; repealed, new added filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.12 Prisoner employment. (a) The following statutory references are pertinent:

(1) County jail—Correction Law, article 20, section 500-d.

(2) County penitentiary—Correction Law, article 19, section 481.

(b) The labor or services of a prisoner shall not be used in any manner which conflicts with the State Constitution or the statutes or results in any benefit of any nature whatsoever to a private individual, firm, company, corporation, association or any similar organization.

(c) Proper supervision shall be provided by duly appointed staff personnel while prisoners are engaged at assigned work details, especially when such work details are in areas or locations outside the security of the county jail or county penitentiary.

(d) See section 5100.22 regarding privileged or "trusty" prisoners.

Historical Note

Sec. added by renum. former sec. 100.12, filed Sept. 24, 1970; repealed, new added filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.13 Work release. (a) Correction Law, article 27—County Jail and article 28—County Penitentiary provide the statutory authority for establishment of work release programs. (*Note:* Guidelines and commission requirements for establishment of work release programs have been promulgated by the commission and a copy will be made available on request.)

(b) In a county where a sheriff or superintendent has been empowered by the legislative body of the county to institute a program of work release, and the sheriff or superintendent in consultation with the appropriate legislative body and other county officials such as the county attorney, county treasurer, director of probation, head of the county department of social services or similar county unit, members of the judiciary, etc., has promulgated rules and regulations for the operation of such program, these rules and regulations are subject to final approval by the State Commission of Correction which must be obtained prior to the implementation of the program. Any sentenced prisoner of the facility may then apply for permission to participate in the program.

Historical Note

Sec. added by renum. former sec. 100.13, filed Sept. 24, 1970; amd. filed June 6, 1972; repealed, new added, filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.14 Classification of prisoners. (a) Housing and separation of prisoners in county jails is governed by the provisions of Correction Law, sections 500, 500-a, 500-b, 500-c, and 500-g. The law (section 500-c) further provides that each of the following classes of prisoners must not be confined in the same room or allowed to commingle in the corridors with prisoners of other classes. This results in the following listed three basic categories which, with four identical subdivisions in each, provides for 12 classifications:

(1) Serving sentence

(2) Civil process or contempt

(3) Criminal process, trial or examination, material witness

(i) Male adults, ages 21 and over

(ii) Male minors, ages 16 to 20 inclusive

(iii) Female adults, ages 21 and over

(iv) Female minors, ages 16 to 20 inclusive

(b) *County penitentiaries.* Correction Law, section 485 mandates the complete separation of minors from adults which requirement may be waived, in the discretion of the official in charge, for the sole purpose of enabling such minor prisoners to participate in educational, vocational and divine worship programs when conducted within the county penitentiary proper.

(c) Correction Law, section 500-g, requires that a sheriff shall receive and safely keep every person duly committed to the county jail under his jurisdiction for any offense against the United States, provided that this will not result in violation of any of the provisions of Correction Law, section 500-c, which section also applies to the classification of persons committed for any offense against the United States; the support of such persons while detained is a proper charge against the United States government.

Historical Note

Sec. added by renum. former sec. 100.14, filed Sept. 24, 1970; repealed, new added, filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.15 Sentence of intermittent imprisonment. (a) Officials in charge of a county jail or a county penitentiary should be guided by the provisions of Penal Law, article 85, sections 85.00, 85.05, 85.10, 85.15, 85.20 and 60.10.

(b) Attention is particularly directed to Penal Law, section 85.20, relating to

certification to be filed with a county clerk, the promulgation of rules and regulations for administration of the intermittent imprisonment procedure.

Historical Note

Sec. added by renum. former sec. 100.15, filed Sept. 24, 1970; repealed, new added, filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.16 Sanitation. (a) Correction Law, article 3, section 46, subdivision 8, requires that the State Commission of Correction shall close any detention facility subject to inspection which is unsanitary.

(b) A schedule shall be established and rigidly followed in a manner which will insure satisfactory adherence to recognized standards of cleanliness and good order which are in keeping with modern and accepted sanitary and health codes and facility management procedures.

(c) Officials in charge are encouraged to utilize to the fullest extent possible, the resources, facilities and the services of personnel of such public agencies as county, city and State health departments in an effort to insure the maintenance of proper sanitation and health standards.

Historical Note

Sec. added by renum. former sec. 100.16, filed Sept. 24, 1970; repealed new added, filed Dec. 7, 1970; Sept. 25, 1972 eff. Sept. 25, 1972.

5100.17 Commissary. (a) In the discretion of the sheriff or official in charge, a commissary may be established, maintained and operated for the purpose of making available for sale to prisoners, items deemed proper by such officials and consistent with the health and welfare of the prisoners and the security and general operation of the facility concerned, e.g., tobacco products, hygiene articles and supplies, writing materials, etc.

(b) The prices of any items offered for sale shall be fixed by the sheriff, or official in charge to the extent that the commissary operation will be self-supporting and will provide a modest return above costs.

(c) Profits resulting from commissary sales shall be deposited in a separate bank account and shall be utilized only for purposes of prisoner welfare and rehabilitation.

(d) Commissary accounts shall be maintained in a manner which will fully substantiate all purchases, sales and expenditures and definite arrangements shall be made for periodic audit of the commissary accounts by the office of county auditor, county treasurer or other county officer in a similar capacity.

(e) Nothing in this section shall be construed as exempting commissary operations in a county jail or a county penitentiary from compliance with the provisions of any applicable county or State statute, resolution, rule, regulation, etc.

Historical Note

Sec. added by renum. former sec. 100.17, filed Sept. 24, 1970; repealed, new added, filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.18 Personnel standards. (a) Correction Law, article 12, section 49, mandates that the Commission of Correction shall establish, maintain and operate a basic correctional training program for such personnel employed in local correctional institutions as the commission shall deem necessary.

(b) Personnel employed in a county jail or a county penitentiary must complete the training program prior to entering upon their duties, or within one year after their appointment.

(c) In a county jail or a county penitentiary where existing staff training programs meet the criteria and standards promulgated by the commission, an exemption to the training course requirement may be granted.

(d) Nothing in this section shall be construed as obviating the need for or value of in-service or refresher type training programs for staff personnel which shall have been approved by the commission.

(e) The sheriff, in the case of a county jail and the official in charge of a county penitentiary shall insure that each newly appointed staff person, prior to assignment to active duty and pending completion of the mandated training program shall be properly instructed with respect to the requirements of his/her position. Preferably, a manual of department policies and facility standardized operating procedures should be prepared and a numbered copy furnished to each employee who should be required to acknowledge receipt of same, in writing.

Historical Note

Sec. added by renum. former sec. 100.18, filed Sept. 25, 1972 eff. Sept. 25, 1972. filed Sept. 24, 1970; repealed, new added,

5100.19 Records. (a) Each sheriff, in the case of a county jail, or the official in charge of a county penitentiary shall maintain or cause to be maintained, such records relating to prisoner characteristics and the general operation of the detention facility as are now or may hereafter be required by law, or by any regulation which has heretofore been, or may hereafter be promulgated by the State Commission of Correction.

(b) Definite arrangements shall be made to insure that all pertinent records will be available for review by a member or a duly appointed staff officer of the State Commission of Correction, at the time of a formal inspection or at such other times as may be required by such persons in the performance of their official duties.

Historical Note

Sec. added by renum. former sec. 100.19, filed Sept. 25, 1972 eff. Sept. 25, 1972. filed Sept. 24, 1970; repealed, new added,

5100.20 Gifts and gratuities. Any trading or bartering with prisoners by any person associated with the operation of a county jail or a county penitentiary is strictly prohibited. No sheriff, warden or superintendent or any officer in charge, or any other staff person shall receive a gift of any nature whatsoever from any prisoner, nor shall any person in charge, or any employee, be permitted to give anything whatsoever to a prisoner, or to buy anything from or sell anything to a prisoner, or to extend to a prisoner any favor of diet, clothing or of any other nature not common to all. These same prohibitions apply to relatives or friends of prisoners or to any other person acting in behalf of a prisoner.

Historical Note

Sec. added by renum. former sec. 100.20, filed Sept. 25, 1972 eff. Sept. 25, 1972. filed Sept. 24, 1970; repealed, new added,

5100.21 Conditional release (local parole). Correction Law, article 25, provides that persons committed to a county jail or a county penitentiary to serve a definite sentence can be considered for release in a parole status. Inquiries regarding the program should be directed to the Commissioner, New York State Department of Correctional Services, Albany, New York.

Historical Note

Sec. added by renum. former sec. 100.21, filed Sept. 25, 1972 eff. Sept. 25, 1972. filed Sept. 24, 1970; repealed, new added,

5100.22 Privileged or "trusty" prisoners. (a) The practice of appointing a prisoner confined to a county jail or a county penitentiary to a so-called "privileged" or "trusty" status in return for performance of certain work assignments is generally accepted and has been in effect in New York State almost since the inception of the county detention facility operation.

(b) In the interest of security and uniformity, the following guidelines are suggested. It should be noted that no one set of guidelines will apply to all facilities or to all prisoners. The rules will become effective or ineffective in accordance with the degree of "privilege", the type of work assignment and the amount of supervision afforded.

(c) No prisoner should be appointed as privileged unless the following minimum stipulations are observed and the prisoner meets the qualifications cited:

(1) Serving sentence, with no previous history of a crime of violence, sex crime, or serious narcotic drug conviction;

(2) No detainer warrants filed;

(3) A New York State Identification and Intelligence System or a Federal Bureau of Investigation return on fingerprints is utilized to establish positive identification;

(4) Is in satisfactory physical and mental health.

(d) Appointment of a prisoner as privileged should be made only by the sheriff, or the authorized official in charge, or a person duly authorized by them; in the second instance, all such appointments should be subject to final approval by the sheriff or official in charge.

(e) A written record should be maintained indicating the date of appointment of a prisoner as privileged and the name of the appointing official. In addition, a list of privileged prisoners together with their clearly defined assignments should be readily available at all times for the information of all concerned personnel.

(f) The privileged status of a prisoner should not be revoked or work assignments changed unless approved by the official in charge.

(g) Privileged prisoners should be required at all times to wear uniform distinctive clothing.

(h) Privileged prisoners should never have authority of any kind, over any other prisoner for any reason whatsover.

(i) Privileged prisoners should never be rewarded financially or in any way other than the privileges regularly granted to insure that there will be equality of benefits to all concerned.

(j) Under no circumstances, no matter how remote, should any privileged prisoner be given access to any keys, or to any weaponry or ammunition or to any of the components thereof. This prohibition would also apply to any chemical agents or equipment, such as CN gas, mace, etc. if such are stored in the detention facility.

(k) Good judgement will dictate that these brief suggested guidelines may require change or modification by the officials in charge which should be in keeping with sound jail management procedures relating to the particular detention facility which is their responsibility.

Historical Note

Sec. added by renum. former sec. 100.22, filed Sept. 24, 1970; repealed, new added, filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.23 Unusual incidents. [Additional statutory authority: Correction Law, § 48] (a) Any incident of an unusual nature which involves the life or physical welfare of a prisoner while detained or the physical well-being of a staff member during the discharge of official duties shall be promptly reported by telephone to the commission's Albany office regardless of the time of day or the day of the week.

(b) Unusual incident shall mean:

(1) All deaths.

(2) Attempted suicides resulting in injuries to inmates which require hospitalization.

(3) Assaults on employees resulting in injuries which require hospitalization.

(4) Injuries to inmates which require hospitalization.

(5) The following types of inmate disturbances:

(i) The taking of hostages.

(ii) The taking control of any portion of a facility.

(iii) The major destruction of institutional property.

(iv) Sit-down strikes.

(6) Escapes and attempted escapes.

(7) Any other type of occurrence which threatens the good order, discipline and security of the facility and its occupants.

(c) Written reports of investigation regarding the unusual incidents specified above shall be submitted, as soon as practicable, to the commission but no later than 30 days subsequent to the telephone notification.

(d) In the case of death, a copy of the death certificate, the coroner's or medical examiner's report, the autopsy report and any other supportive information such as photographs, signed statements, etc. shall be submitted to the medical review board, State Commission of Correction.

Historical Note

Sec. added by renum. former sec. 100.23, filed Sept. 24, 1970; repealed, new added filed Sept. 25, 1972; amd. filed Nov. 1, 1974 eff. Nov. 15, 1974.

5100.24

Historical Note

Sec. added by renum. former sec. 100.24, filed Sept. 24, 1970; repealed, filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.25

Historical Note

Sec. added by renum. former sec. 100.25, filed Sept. 24, 1970; repealed, filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.26

Historical Note

Sec. added by renum. former sec. 100.26, filed Sept. 24, 1970; repealed, filed Sept. 25, 1972 eff. Sept. 25, 1972.

5100.27

Historical Note

Sec. added by renum. former sec. 100.27, filed Sept. 24, 1970; repealed, filed Sept. 25, 1972 eff. Sept. 25, 1972.

EXHIBIT D - CURRENT VERSION OF INMATES RULES AND REGULATIONS (pp. 100a-109a)

RULES AND REGULATIONS OF INMATES CONFINED TO THE DUTCHESS COUNTY JAIL

THE RULES STATED BELOW WILL EXPLAIN WHAT IS EXPECTED OF YOU AND WHAT IS AVAIL-TO YOU WHILE YOU ARE AN INMATE AT THE DUTCHESS COUNTY JAIL. THESE RULES ARE INTENDED TO INSURE YOUR WELL-BEING AND SAFETY, DECENT LIVING CONDITIONS AND EQUAL AND FAIR TREATMENT. THE JAIL IS MANAGED AND CONTROLLED BY THE SHERIFF AND HIS STAFF. NO PRISONER WILL BE ASSIGNED TO SUPERVISE OR CONTROL OTHER PRISONERS. IF YOU DO NOT UNDERSTAND THESE RULES, ASK THE JAILOR OR GUARD ON DUTY TO EXPLAIN THEM TO YOU.

(A). CLOTHING.

YOU ARE REQUIRED TO WEAR ISSUED JAIL CLOTHING. NO PERSONAL CLOTHING WILL BE ALLOWED EXCEPT SHOES, SOCKS, AND UNDERWEAR. ALL YOUR OTHER PERSONAL CLOTHING WILL BE KEPT IN THE JAIL STORAGE ROOM AND YOU WILL BE GIVEN A RECEIPT FOR SAME. ONLY ONE CHANGE OF CLOTHING WILL BE ACCEPTED. ADDITIONALLY, ONE CHANGE OF CLOTHING WILL BE ISSUED EACH WEEK. YOUR PERSONAL CLOTHING WILL NOT BE RELEASED TO FAMILY OR FRIENDS WHILE YOU ARE CONFINED IN JAIL OR WILL OTHER CLOTHING BE ACCEPTED IN EXCHANGE EXCEPT AS NECESSARY FOR COURT OR JURY TRIAL. TRANSFER IF INMATE PERSONAL PROPERTY IS NOT ALLOWED. TO EXCHANGE JAIL CLOTHING, MUST RETURN A LIKE ITEM.

(B). JAIL PROPERTY:

IN ADDITION TO JAIL CLOTHING, YOU WILL BE ISSUED COMPLETE BEDDING AND A TOWEL. THIS IS JAIL PROPERTY AND MUST BE RETURNED TO THE JAIL UPON YOUR RELEASE. DO NOT GIVE, TRADE, OR TRANSFER THIS PROPERTY TO ANOTHER INMATE. YOU WILL BE HELD RESPONSIBLE FOR ITS LOSS OR DESTRUCTION AS WELL AS ANY DAMAGE YOU CAUSE TO THE PLUMBING, OR ANY PART OF THE BUILDING, OR OTHER JAIL PROPERTY. TO EXCHANGE WITH LAUNDRY, YOU MUST RETURN A LIKE ITEM.

(C). PERSONAL PROPERTY:

YOU ARE NOT PERMITTED TO KEEP MONEY OR VALUBLE ARTICLES IN YOUR POSSESSION. THESE ARTICLES WILL BE TURNED IN AT THE JAILOR'S OFFICE DESK AT THE TIME OF ADMISSION. THE PROPERTY OFFICER WILL GIVE YOU A RECEIPTE FOR ALL ITEMS. IT IS YOUR RESPONSIBILITY TO RETAIN THIS RECEIPT AND PRESENT IT UPON YOUR RELEASE FROM THE INSTITUTION.

(D). LIVING QUARTERS:

UPON COMPLETION OF YOUR PROCESSING YOU WILL BE ASSIGNED TO QUARTERS AMONG THE GENERAL POPULATION IN ACCORDANCE WITH YOUR STATUS.

(E). MONEY

YOU WILL NOT BE PERMITTED TO POSSESS MONEY. HOWEVER, YOU ARE PERMITTED TO HAVE SMALL SUMS CREDITED TO YOUR PERSONAL ACCOUNT BY FRIENDS OR FAMILY MEMBERS. ALL MONEY IN YOUR ACCOUNT WILL BE RECEIPTED UPON YOUR ADMISSION AND AT ANY OTHER TIME FUNDS ARE DEPOSITED TO YOUR ACCOUNT. INMATES ARE NOT ALLOWED TO TRANSFER ANY PART OF HIS MONEY FROM HIS ACCOUNT TO ANOTHER INMATE, UNLESS SPECIAL PERMISSION IS GRANTED BY THE JAIL ADMINISTRATION MANAGER.

(F). COMMISSARY:

THE COMMISSARY IS A PRIVILEGE AND IS MAINTAINED FOR YOUR USE. YOU MAY UTILIZE THE COMMISSARY ONCE A WEEK. A LIST OF ALL ITEMS FURNISHED IN THE COMMISSARY IS AVAILABLE AND PASSED OUT BY THE TIER OFFICERS. THE LIST IS FILLED OUT BY THE INMATE AND COLLECTED. THESE ORDERS ARE FILLED AND DELIVERED THE FOLLOWING DAY. WHEN AN INMATE RECEIVES THE ORDER, HE SIGNS A RECEIVING SLIP. PAYMENT FOR THE ITEMS WILL BE DEDUCTED FROM THE INMATES ACCOUNT CARD.

COMMUNICATIONS:

YOU WILL BE PERMITTED ONE PERSONAL TELEPHONE CALL UPON ADMISSION.

YOU MAY SEND AND RECEIVE SMALL MAIL TO MEMBERS OF YOUR IMMEDIATE FAMILY, YOUR ATTORNEY AND SUCH OTHER PERSONS APPROVED BY THE SHERIFF. ALL MAIL, INCOMING AND OUTGOING, IS SUBJECT TO INSPECTION.

"SPECIAL MAIL" YOU MUST GIVE WRITTEN PERMISSION FOR YOUR MAIL TO BE INSPECTED. IF YOU DO NOT GIVE SUCH PERMISSION, YOU CANNOT SEND MAIL OUT, AND ALL MAIL RECEIVED FOR YOU WILL BE RETURNED TO SENDER.

YOU WILL NOT BE PERMITTED TO CARRY ON CORRESPONDENCE FOR THE REGULAR OPERATION OF YOUR BUSINESS. YOU ARE AUTHORIZED TO WRITE 4 LETTERS PER WEEK. EXECPTIONS TO THE RULE FOR ALL PRISONERS MAY BE PERMITTED, DEPENDING ON THE CURCUMSTANCES INVOLVED. ALL PRE-TRIAL INMATES WILL BE ALLOWED TO CORRESPONDENCE UPON REQUEST - THEY WILL REQUEST STATIONERY OF THE OFFICER AND WILL TURN IN THE LETTERS TO THE 4-12 SHIFT OFFICER ON EVENING BED CHECKS - THE INDIVIDUAL INMATES WILL PAY THE POSTAGE FOR THESE LETTERS. THIS IS AN ADDITION TO THE NORMAL SUNDAY AND WEDNESDAY MAI OR INMATES.

SPECIAL CORRESPONDENCE SHALL BE PERMITTED TO THE PRESIDENT OF THE UNITED STATES, THE GOVERNOR OF THE STATE OF NEW YORK, MEMBERS OF THE NEW YORK STATE LEGISLATURE, THE NEW YORK STATE COMMISSION OF CORRECTION, THE CHAIRMAN OF THE NEW YORK STATE PAROLE BOARD, AND TO ANY ATTORNEY OR ANY COURT. OUTGOING SPECIAL CORRESPONDENCE MAY BE EXAMINED IN THE PRESENCE OF THE PRISONER TO INSURE ABSENCE OF CONTRABAND PRIOR TO THE MAILING BUT SHALL NOT BE READ OR CENSORED. INCOMING SPECIAL CORRESPONDENCE SHALL BE OPENED AND INSPECTED FOR CONTRABAND IN THE PRESENCE OF THE PRISONER BUT SHALL NOT BE READ OR CENSORED. (TO CENSOR MEANS TO ENTIRELY WITHHOLD OR TO DELETE SOME OR ALL OF THE CONTENTS OF THE LETTER.)

COMMUNICATIONS: (cont'd)

YOUR ADDRESS AT THE JAIL IS:

MR JOHN DOE
DUTCHESS COUNTY JAIL
150 NORTH HAMILTON STREET , OR
P.O. BOX 389
POUGHKEEPSIE, NEW YORK 12602

THERE WILL BE NO WRITTEN CORRESPONDENCE BETWEEN OR AMONG INMATES.

(H.) VISITS:

YOU MAY HAVE SUPERVISED VISITS FROM MEMBERS OF YOUR IMMEDIATE FAMILY. SUPERVISED VISITS WILL BE LIMITED TO TWO PERSONS PER VISIT, 16 YEARS OF AGE OR OLDER, AND OTHER SUCH PERSONS APPROVED BY THE SHERIFF, OR A DESIGNATED MEMBER OF HIS STAFF. VISITS SHALL BE OF 20 MINUTE DURATION. NO ITEMS OF CLOTHING WILL BE ACCEPTED ON VISITING DAYS. ALL VISITORS WILL BE REQUIRED TO PRODUCE IDENTIFICATION SUCH AS OPERATOR'S LICENSE, SOCIAL SECURITY CARD, ETC. ACCEPTABLE TO THE JAIL ADMINISTRATION. A CLERGYMAN OF YOUR CHOICE MAY VISIT AT ANY HOURS CONVENIENT TO THE JAIL.

VISITING HOURS:

WEDNESDAY EVENING:	6:00PM to 9:00PM.
SATURDAY:	9:00AM to 11:00AM 1:00PM to 3:00PM.

(I). RECREATION:

YOU WILL BE ALLOWED ACCESS TO THE RECREATION YARD DEPENDING ON THE WEATHER AND AT THE DISCRETION OF THE PROGRAM DIRECTOR OR SUPERVISING AUTHORITY ON DUTY. BASKETBALL AND VOLLEYBALL MAY BE PLAYED IN THE YARD. ADDITIONALLY, SOFTBALL GLOVES, AND BALLS ARE AVAILABLE FOR INMATE USE IN THE YARD. TELEVISION MAY BEE SEEN ON REGULATED PERIODS AT THE DISCRETION OF THE TIER OFFICER. PING PONG IS AVAILABLE ON A LIMITED BASIS. CHECKERS AND CHESS SETS AND OTHER GAMES ARE AVAILABLE IN THE CELL BLOCKS NO GAMBLING IS ALLOWED

(J) EDUCATION:

AN EDUCATION PROGRAM IS AVAILABLE TO SEE INMATES IF THERE IS A NEED. ALL INCOMING INMATES WILL BE GIVEN A PHYSICAL EXAMINATION. INMATES WITH PHYSICAL DEFECTS OR THOSE WITH OTHER AILMENTS SHOULD ADVISE THE DOCTOR OF THEIR PROBLEMS SO PROPER CARE AND MEDICATION CAN BE PRESCRIBED. ANY INMATE DESIRING A DOCTOR'S CARE WILL NOTIFY THE OFFICER ON DUTY AS EARLY IN THE DAY AS POSSIBLE. YOU MUST FILL OUT A MEDICAL REQUEST FORM PRIOR TO SEEING THE DOCTOR. NO PERSONAL MEDICATION IS PERMITTED EXCEPT AS PRESCRIBED OR APPROVED BY THE JAIL PHYSICIAN. ALL MEDICINES BROUGHT INTO THE JAIL AT THE TIME OF ADMISSION WILL BE TURNED INTO THE DESK OFFICER. DOCTOR'S INSTRUCTIONS WILL BE FOLLOWED BY INMATES. ALL MEDICATIONS MUST BE DISPENSED IN CRUSHED OR LIQUID FORM. DENTAL CARE IS LIMITED TO EMERGENICES.

(L). PERSONAL HYGIENE:

CLEANLINESS IS MANDATORY. IT IS THE OBLIGATION OF EACH INMATE TO KEEP HIS CELL AND HIMSELF CLEAN. SHOWERS ARE AVAILABLE ON A DAILY BASIS. RAZORS WILL BE PROVIDED TUESDAYS AND FRIDAYS OF EACH WEEK. ADDITIONAL SHAVING PRIVILEGES WILL BE ALLOWED ON THE EVENING BEFORE YOUR DISCHARGE OR PRIOR TO THE DAY YOU ARE SCHEDULED TO APPEAR IN COURT. DEFACING OF THE WALLS IS PROHIBITED. NO SHEETS, BLANKETS, OR OTHER MATERIAL SHALL BE DRAPED OVER THE CELL IN ANY MANNER WHICH WOULD OBSCURE THE FULL VIEW OF THE INTERIOR OF THE CELL OR BUNK. JAIL CLOTHING AND LINEN WILL BE EXCHANGED WEEKLY, ACCORDING TO SCHEDULE. HAIRCUTS ARE GIVEN TO INMATES FREE OF CHARGE BY THE JAIL BARBER.

(K) MEDICAL AND DENTAL CARE:

A DOCTOR IS ASSIGNED TO THE JAIL AND WILL BE AVAILABLE TO SEE INMATES IF THERE IS A NEED. ALL INCOMING INMATES WILL BE GIVEN A PHYSICAL EXAMINATION. INMATES WITH PHYSICAL DEFECTS OR THOSE WITH OTHER AILMENTS SHOULD ADVISE THE DOCTOR OF THEIR PROBLEMS SO PROPER CARE AND MEDICATION CAN BE PRESCRIBED. ANY INMATE DESIRING A DOCTOR'S CARE WILL NOTIFY THE OFFICER ON DUTY AS EARLY IN THE DAY AS POSSIBLE. YOU MUST FILL OUT A MEDICAL REQUEST FORM PRIOR TO SEEING THE DOCTOR. NO PERSONAL MEDICATION IS PERMITTED EXCEPT AS PRESCRIBED OR APPROVED BY THE JAIL PHYSICIAN. ALL MEDICINES BROUGHT INTO THE JAIL AT THE TIME OF ADMISSION WILL BE TURNED INTO THE DESK OFFICER. DOCTOR'S INSTRUCTIONS WILL BE FOLLOWED BY INMATES. ALL MEDICATIONS MUST BE DISPENSED IN CRUSHED OR LIQUID FORM. DENTAL CARE IS LIMITED TO EMERGENICES.—

(M.) CARE OF LIVING QUARTERS:

WHETHER YOU ARE SERVING A SENTENCE OR BEING HELD FOR TRIAL, OR OTHERWISE, YOU ARE REQUIRED TO KEEP THE QUARTERS IN WHICH YOU LIVE, SPOTLESSLY CLEAN, AND TO SHARE IN MAINTAINING CLEANLINESS THROUGHOUT THE JAIL. THE TIER OFFICER WILL ASSIGN YOU TO YOUR SHARE OF THIS WORK.

WORK DETAILS WILL INCLUDE, BUT NOT LIMITED TO:

1. SWEEPING AND MOPPING ENTIRE FLOOR, INCLUDING CELLS, TIER AND EXERCISE CORRIDOR.
2. EMPTYING GARBAGE.
3. WIPING DOWN ALL BARS.
4. CLEAING WALLS AND WINDOW SILLS
5. ALL BEDS TO BE COMPLETELY MADE.

SAID DETAIL SHALL COMMENCE AT 8:00AM AND SHOULD BE COMPLETED BY 9:30AM.

AFTER EACH MEAL, THE FLOOR SHOULD BE SWEPT AND ANY FOOD SPILLED ON BARS OR FLOORS MOPPED UP. INMATES SHALL TAKE TURNS ON A ROTATING BASIS.

(N) CONDUCT:

YOU MUST OBEY ALL RULES OF THE JAIL AND THE JAIL OFFICER'S INSTRUCTIONS, AND CONDUCT YOURSELF IN AN ORDERLY, DECENT MANNER WITH RESPECT FOR THE RIGHTS OF OTHER INMATES. IF YOU FAIL TO CONDUCT YOURSELF PROPERLY, YOU MAY LOSE THE PRIVILEGES EXTENDED TO INMATES IN GOOD STANDING.

i.e. LOSS OF COMMISSARY PRIVILEGES, LOSS OF MAIL PRIVILEGES, VISITING PRIVILEGES, USE OF RECREATION YARD AND IT MAY RESULT IN LOSS OF GOOD TIME.

(O). RELIGIOUS SERVICES:

RELIGIOUS SERVICES ARE CONDUCTED TWICE A WEEK. CATHOLIC MASS IS ON TUESDAY AFTERNOON AND PROTESTANT SERVICES ARE ON WEDNESDAY AFTERNOON.

(P). EMPLOYMENT:

THERE ARE A LIMITED NUMBER OF JOBS AVAILABLE WITHIN THE JAIL WHICH ENABLE AN INMATE TO LEAVE HIS PARTICULAR CELL BLOCK. THESE JOBS ARE ASSIGNED BY THE JAIL ADMINSTRATION MANAGER.

(Q). INMATE COMPLAINTS:

INMATES HAVING ALLEDGED COMPLAINTS, MAY MAKE THEM KNOWN BY SUBMITTING THEM IN WRITING, TO THE JAIL ADMINISTRATION MANAGER.

(R). RELEASE:

UPON TERMINATION OF YOUR SENTENCE OR WHEN BEING RELEASED AND WITH THE APPROVAL OF THE SHERIFF, YOU MAY BE RELEASED AT ONE MINUTE PAST MIDNIGHT OF YOUR RELEASE DATE, PROVIDIED YOU HAVE YOUR OWN TRANSPORTATION, AND HAVE WILLINGLY COMPLIED WITH ALL JULE RULES.

(S). CONTRABAND:

ANYTHING NOT SPECIFICALLY APPROVED ON AN INDIVIDUAL BASIS, BY THE RECEIVING OFFICER OR TIER GUARD WILL BE CONSIDERED CONTRABAND AND SUBJECT TO CONFISCATION AND POSSIBLE PROSECUTION. INMATES GOING TO COURT WILL BE PERMITTED TO CARRY CIGARETTES AND MATCHES.

(T). ESCAPE:

ANY INMATE WHO ESCAPES, ATTEMPTS TO ESCAPE, ASSISTS ANOTHER INMATE TO ESCAPE, ENCOURAGES, ANOTHER INMATE TO ESCAPE, WILL BE PROSECUTED AS PROVIDED BY LAW.

(U). GOOD BEHAVIOR ALLOWANCES:

AT THE DISCRETION OF THE SHERIFF, EVERY PERSON CONFINED IN THE COUNTY JAIL SERVING A DEFINITE SENTENCE OR IMPRISONMENT, MAY BE-CEIVE TIME ALLOWANCE AS DISCRETIONARY REDUCTIONS OF THE TERM OF HIS SENTENCE, NOT TO EXCEED IN THE AGGREGATE ONE-SIXTH OF THE TERM IMPOSED BY THE COURT. SUCH ALLOWANCES MAY BE GRANTED FOR GOOD BEHAVIOR AND EFFICIENT AND WILLING PERFORMANCES OF DUTIES ASSIGNED TREATMENT PROGRAM, AND MAY BE WITHHELD, FOREEITED, OR CANCELLED IN WHOLE OR IN PART, FOR BAD BEHAVIOR, VIOLATION OF INSTITUTIONAL RULES OR FAILURE TO PERFORM PROPERLY IN THE DUTIES OF THE PROGRAM ASSIGNED.

NO PERSON SHALL HAVE THE RIGHT TO DEMAND OR REQUIRE THE ALLOWANCES AUTHORIZED BY THIS SECTION. THE DECISION OF THE SHERIFF AS TO THE GRANTING, WITHHOLDING, FOREFEITURE, CANCELLATION OR RESTORATION OF SUCH ALLOWANCES, SHALL BE FINAL, AND SHALL NOT BE REVIEWABLE.

LAWRENCE M. QUINLAN
SHERIFF, DUTCHESS COUNTY

7/16/75

CLEAN UP DETAIL

WORK DETAILS WILL INCLUDE, BUT NOT LIMITED TO:

1. SWEEPING AND MOPPING ENTIRE FLOOR, INCLUDING CELLS, TIER AND EXERCISE CORRIDOR.
2. EMPTYING GARBAGE.
3. WIPING DOWN ALL BARS.
4. CLEANING WALLS AND WINDOW SILLS.
5. ALL BEDS TO BE COMPLETELY MADE.

SAID DETAIL SHALL COMMENCE AT 8:00AM AND SHOULD BE COMPLETED BY 9:30AM.

AFTER EACH MEAL THE FLOOR SHOULD BE SWEPT AND ANY FOOD ON BARS OR FLOORS MOPPED UP. INMATES SHALL TAKE TURNS ON A ROTATING BASIS.

COMPOSITION OF INDIVIDUAL WORK DETAILS WILL BE MADE ON A CHRONOLOGICALLY ROTATING SEQUENCE OF CELLS ON THE TIER BEGINNING WITH CELL ONE AND RUNNING TO CELL 17. FOR EXAMPLE, IF THREE MEN ARE NEEDE TO WORK A DETAIL, CELLS 1,2,3 WILL BE USED. THE NEXT DAY, THE DETAIL WOULD START AT CELL 4.

ADDITIONAL WORK DETAILS SHALL COMMENCE AS SOON AS HOUSING AREAS ARE CLEAN. ALL HALLS, STAIRWAYS, SHALL BE SWEPTED AND MOPPED. ADDITIONALLY ALL FLOORS IN THE BUIDLING SHALL BE BUFFED PERIODICALLY. THE ELEVATOR SHALL BE MOPPED AFTER EACH MEAL BY THE KITCHEN CREW. THE KITCHEN OFFICERS SHALL MAINTAIN THE CLEANLINESS OF THE KITCHEN.

LAWRENCE M. QUINLAN
SHERIFF, DUTCHESS COUNTY

OPINION OF WERKER, U.S.D.J. ON JUNE 21, 1976
(pp. 110a-129a)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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RAYMOND G. LASKY, NICHOLS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, and PRE-TRIAL DETAINEES,

Plaintiffs,

- against -

SHERIFF LAWRENCE QUINLAN, SERGEANT FARMER, JAILERS BOYCE, A. SMITH, CALLUIAN,

Defendants.

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OPINION

73 Civ. 1666 (HFW)

APPEARANCES: (See last page)

HENRY F. WERKER, D. J.

This action was commenced against the Dutchess County Sheriff, the Head Jailer and other Jailers alleging violations of various constitutional rights as well as a violation of 42 U.S.C. § 1983. Only injunctive relief was sought. The Honorable Murray I. Gurfein, then United States District Judge, now Judge of the Court of Appeals for the Second Circuit, to whom this case was assigned held a hearing with respect to the allegations in the complaint on July 2, 5 and 6, 1973. Thereafter, at the suggestion of Judge Gurfein, counsel for the plaintiffs and counsel for the defendant Sheriff got together and entered into a stipulation dated July 25, 1973 with respect to the improvements needed in the jail which the defendant Sheriff agreed to implement. Judge Gurfein on July 30, 1973, entered an opinion and order approving the stipulation which had been entered into between counsel for the respective parties. ' tated in that opinion, "The action is dismissed upon the stipulation being filed, subject to reopening or the institution of contempt proceedings in the event of a wilfull failure to comply with the

aforementioned order of the court."

On December 8, 1975, counsel for the plaintiffs moved to hold the Sheriff in contempt on grounds involving the non-compliance with the stipulation and the order of Judge Gurfein and this matter was re-opened. A hearing with respect to the allegations made in the motion to hold the Sheriff in contempt was held on February 3, 4, 5 and 6, 1976 at Poughkeepsie, New York.

As required by Rule 52 of the Federal Rules of Civil Procedure, I make the following findings of fact and conclusions of law based upon the testimony given and the documentary evidence received at that hearing.

In the 29 months following the entry of Judge Gurfein's order plaintiffs' counsel repeatedly requested the Sheriff and his counsel to provide him with evidence showing compliance with the stipulation and order.

The Sheriff and his counsel were notified that failure to comply with the terms of the stipulation would result in a motion to find the Sheriff in contempt.

No application throughout the period was made to this court to relieve the Sheriff of any obligations assumed under the stipulation and order or to clarify the same.

1. Classification of Inmates

The stipulation required that persons detained for trial or examination should not be kept in the same room as convicts under sentence. It also required that minors be separated from adults. I find that the Sheriff has failed to make the necessary classification of inmates; indeed upon the hearing, the court was required to direct the Sheriff to remove from the Dutchess County Jail such inmates who were not within classification.

There was considerable testimony that unsentenced inmates were

often housed with those who had already been sentenced. On January 13-16, 1976, at a time when the jail population was low enough to permit proper classification, Mr. Swiderik, a senior investigator for the New York State Commission of Correction found five violations of the classification requirements during an inspection. Entries in the diary of James Montross, deputy sheriff for the Dutchess County Jail, indicated at least two different instances when minors were housed with adults. Mr. Dvorocsik, a former inmate of the jail testified about an instance when it was the inmates who informed the guards that a certain prisoner housed on their floor was a minor and it was as a result of that information that the minor was moved.

The Sheriff testified that he was unable to comply with the terms of the stipulation with respect to the classification of inmates, and he maintains that he has done what he can to be as close to compliance as possible. The court does not agree. No adequate procedure has been established for determining the proper classification of each inmate as he is admitted to the jail. No concerted and constant attempt has been made to transfer inmates who cannot be properly housed within the existing facilities of the jail. As was noted above, the Sheriff, aware that the jail was not in compliance with the order as entered by Judge Gurfein, made no communication to the court for clarification of the order or to be relieved of his responsibilities under it. To the extent he was able to comply without effort, he did so. Otherwise, he willfully continued to operate the jail without properly classifying the inmates.

2. Inmate Personal Hygiene

The stipulation required that the inmates receive specific items of clean bedding and that necessary toilet articles such as shampoo and deodorant be available by purchase or otherwise. White goods and institutional clothing were to

be exchanged at least weekly and blankets, mattresses and pillows were to be checked and aired frequently. When an inmate was discharged, all his bedding was to be removed from the housing area and laundered, cleaned or repaired as necessary before being reissued. Each inmate, health permitting, was to bathe immediately upon admission, and an adequate supply of water at a suitable temperature was to be available at all times in the showers. In addition, the stipulation incorporated the requirements of 7 N.Y.C.R.R. § 5100.6. The statute requires that items such as soap, razors, toothbrush and toothpaste be furnished to all prisoners as needed. The testimony showed that the jail did not conform to these standards and that this failure was willful.

I find that the inmates do not receive the required bedding, linen and clothing nor are they afforded an adequate opportunity to bathe themselves. There are no written procedures or other guidelines to instruct the guards on duty as to the personal articles a newly-admitted inmate will receive. The Sheriff testified that there is a standing order that inmates be given the proper bedding, but he did not know whether or not the order was complied with and could only assume that the guards were informed of the requirement by their superiors. The Sheriff admitted that blankets and pillows are not necessarily laundered before being reissued and did not know whether mattresses were cleaned upon being returned by a departing inmate. The mattresses are generally without covers.

Inmates do not regularly get showers upon admittance, nor are they decontaminated. There was considerable uncontradicted testimony that although the water temperature is generally suitable for bathing, there are frequent incidents when inmates are scalded by unexpected bursts of hot water.

3. Health Services

The stipulation contained several requirements with respect to

inmate health services. Each inmate in continuous custody at the jail for 14 days or more was to be examined by a physician. Any inmate admitted to the jail for public intoxication or complaining of or evidencing any illness or disorder requiring prompt medical attention was to be examined by a physician at the time of admission or as soon thereafter as possible. The jail was to provide adequate rooms, equipment and supplies for conducting physicial examinations and for treating emergencies and minor illnesses and injuries. The jail was required to arrange quarters for inmates too ill to remain safely in the general jail population but not so ill as to require hospitalization. Facilities or arrangements for curative and preventive dental care were ordered. The jail was directed to afford any inmate suffering from any chronic condition appropriate treatment and care irrespective of his status or the anticipated length of his confinement. The stipulation also incorporated the requirements of 7 N.Y.C.R.R. § 5100.11, which includes among other things requirements pertaining to proper storage and control of drugs. The statute also requires that to the extent possible facility personnel be trained in first aid and emergency life saving techniques.

The court finds that the provisions of the stipulations with respect to inmate health services were continually and willfully violated. The jail has had a series of part-time physicians, who have never been informed of the stipulation entered into in this matter and who have received little guidance or support from the Sheriff. Although the jail physician informed the Sheriff of the great need for psychiatric, psychological or counselling services within the jail, the Sheriff was not interested. This is true despite the fact that the New York State Commission on Correction directed the Sheriff to provide the services of a professional social worker. During an interview with Mr. Swiderek, a correctional facility review specialist, Sheriff Quinlan asserted that a social worker had been visiting the jail,

but all attempts to verify that fact through visitors' logs and conversations with officers and inmates were unsuccessful. Furthermore, Dr. Newman, Commissioner of Mental Hygiene, informed Sheriff Quinlan in early 1975 that his department could provide on a full-time basis whatever mental services the jail needed without any additional cost to the Sheriff's department. These services included a psychiatrist or a psychiatric social worker. The Sheriff never took advantage of this opportunity. As of the date of the hearing no arrangement had been made or even attempted to provide full-time mental health services at the jail. Arrangements have been made, however, for twenty inmates to visit the Mental Health Center over the past year, but this is not adequate given the present needs of the jail population. Although there was testimony that legislative and executive authority were needed to assign a person to the jail, there is no evidence that the Sheriff made anything more than a perfunctory attempt to secure compliance with the requirement that he provide mental health services in the jail.

The examination and treatment facilities at the jail have not been improved since the issuance of the order, and the Sheriff has conceded that they are inadequate. There is a small examining room for the male patients containing a desk, chair, cabinet, sink, old dentist's chair and old examining table. There are no facilities for giving injections at the jail because proper storage for syringes is not available. Only the most rudimentary facilities are available for the women. There is no examining room in the women's quarters; no gynecological examinations could be given although there are a number of pregnant inmates. There was some testimony that an examining table with stirrups was installed in the matron's quarters. This represents an improvement over the prior situation, but does not remedy the severe lack of proper treatment facilities in the jail.

As a result of the lack of facilities, it has been necessary to rely

heavily upon community medical services. This makes the availability of transportation crucial. Nonetheless, transportation is often not available or is delayed. Inmates frequently miss appointments, and it can take as long as a month to have one rescheduled. The court finds that inmate access to community clinics is hampered by the unavailability of transportation and personnel and by the absence of adequate procedures, particularly in emergencies.

Emergency procedures within the jail are woefully inadequate. The staff generally is not trained to apply first aid and emergency life saving techniques. There have been two recent suicides within the jail. Neither were cut down immediately upon being discovered, and no emergency first aid was attempted. During the investigation of one such incident it was discovered that the oxygen tanks in the jail resuscitator were empty and that it would take two jailers approximately ten to fifteen minutes to replace them. It was also demonstrated that the jail staff is not properly trained to use the resuscitator. The staff generally is not trained to apply first aid and emergency life saving techniques. The resuscitator is kept in the admissions area in the basement although the inmates with medical and emotional problems, who are the ones likely to need it, are normally housed on the third floor. The Sheriff testified that in his opinion it would take three minutes to get the resuscitator to the third floor in an emergency; however, this requires that advance notice be given to unlock the doors through which the machine must pass. There are similar problems with fire extinguishers; many are inoperative and the staff is unfamiliar with their use. There is a serious problem with respect to evacuation of the jail in case of fire. No access or escape provisions have been formulated for the jail which is not fire-resistant.

Dental care has become less available since the 1973 order and preventive care has never been provided. Dr. Katz, who has been providing dental

care to inmates at the jail for about five years, donated a dentist's chair, a spotlight and dental instruments. He was never apprised of the full extent of the 1973 court order with respect to dental care. In 1974, he was notified that the jail could no longer afford to provide for his weekly visits to the jail to prescreen the inmates who requested dental care. Inmates who request to see the dentist are scheduled as time permits. There is no method for screening the inmates or for determining whether a certain inmate has a problem which should get priority. The net result is that there are certain inmates who are unable to see the dentist or who have to wait a long time to do so. There is also considerable difficulty and confusion surrounding the authorization of costly dental procedures. The dentist has no guidelines for determining which procedures require authorization, and when authorization is requested, it can be as long as six months or more before a decision is made.

There is a serious problem with drugs at the jail. The storage, distribution, control and in some instances the prescription of medicine is entrusted to members of the jail staff who have very little experience in dealing with drugs. As a consequence, the abuse of drugs by some inmates and the inability of others to obtain proper medication at appropriate intervals have been observed and are found by this court. Inmates are able to store drugs in their cells and inmates who are not officially receiving medication often appear to be under the influence of drugs. There was testimony that in September 1975 a bottle of Darvon was found in an unlocked cabinet in the admissions office. Approximately three weeks later the entire contents of the bottle were gone. A perpetual inventory of the drugs in the jail was never established despite the recommendation of the medical officer. In May 1975, the Sheriff expressed his concern over the enormous amount of medication prescribed by the jail physician. At that time approximately 30-50% of

the inmates received sleep medication and approximately the same percentage received tranquilizers. Nevertheless, despite the seriousness of the problem, no steps were taken to explore or alleviate it. The procedures for dispensing medication and for storing medication trays before distribution invite trouble and could easily be modified without expense to the Sheriff's office.

All newly admitted inmates do not receive physical examinations as is required by statute. The stipulation required that inmates who were confined to a cell apart from other inmates or who were put on a restricted diet were to be visited by a physician during each twenty-four hour period that the confinement or restricted diet continued. This requirement has been totally disregarded. The jail physician was never even informed of it.

The Sheriff's disregard of the services of the Dutchess County Health Department as a method for evaluating the medical services of the jail and as a source of suggestions for improving the medical situation at the jail is further evidence of his failure to attempt to comply with the provisions of the stipulation. In December of 1974, Dr. Redmond of the County Health Department issued a report on jail medical services upon which no action has ever been taken. In his testimony at this hearing, Dr. Redmond made it clear that the biggest obstacle which prevented the Health Department from making a significant contribution toward improving the jail facilities was the lack of cooperation from the Sheriff's office.

4. Food

The stipulation required that the kitchen, kitchen equipment, food storage and serving methods and sanitation meet the minimum standards prescribed by law for restaurants. It also specified that all persons working in and around the kitchen and serving and handling food meet restaurant health requirements. The

stipulation provided that the public health authorities do regular inspections and that minimum nutritional standards be maintained for inmates who for religious reasons do not eat pork. The stipulation also incorporated the requirements of 7 N.Y.C.R.R. § 5100.10. The court finds there to have been an utter and willful failure to comply with these requirements.

The man in charge of the kitchen, William Hesselbach, was never informed that a court order had been entered with respect to the jail, nor was he apprised of the contents of it as it related to the kitchen. Examination of persons who work in the kitchen and in areas where food is served is on a hit or miss basis. No program of regular physical examinations appears to exist for them. The inmates who serve the food on the floors are not included when the jail physician conducts kitchen physicals.

There is little, if any, supervision with respect to the cleanliness of the kitchen workers and the clothing and linen they use. Inmates must be reminded to wear their white uniforms and many have been observed working in the kitchen area wearing their own T-shirts. Inmates wear their kitchen uniforms back to their cells and keep them there during off-duty hours. There is no procedure to prevent the inmate from wearing the uniform while off-duty. There are no regular bathing or washing procedures for the kitchen staff. Inmates who work in the kitchen do not shower before starting work; rather, it is expected that they shower on their tier in the evening after work. There is no regular procedure for insuring that any inmate even washes his hands upon entering the kitchen.

It is the court's conclusion that the kitchen does not provide a healthy or sanitary atmosphere within which food is prepared. None of the recommendations made by the Health Department of Dutchess County have been carried out. As was pointed out by Dr. Redmond in a letter to Sheriff Quinlan on

August 12, 1975, many of the health violations could have been cured with a minimal expenditure of county funds. The extent to which these problems have not been corrected evidence the lack of concern by the jail administration about a sanitary and healthy facility, not the results of a shortage of funds.

5. Recreation

The stipulation required that an outdoor recreation and exercise area become operational no later than January 1974. The court finds that there is no exercise area within the jail and the outdoor exercise area, the only area where physical exercise is possible, is not operated according to schedule. In the cold months it is not operated at all. The personnel of the jail have arbitrarily determined that inmates are not permitted to use the outdoor exercise area when the temperature is below 50 degrees even though jackets are available within the jail for the use of the inmates who wish to take physical exercises. As of the time of this hearing in February 1976 no inmate had had the opportunity to go outside since October 1975. The court finds this to be a willful violation of the requirements of the stipulation.

6. Communication

The stipulation contained several directives with respect to mail and the use of the telephone. Stationery for inmate correspondence was required to state accurately all restrictions on inmate correspondence. Sentenced inmates could be restricted in the number and classes of persons with whom they could correspond and in the frequency of that correspondence provided that such restrictions were communicated in writing to all such inmates. No such restrictions could be applied to non-sentenced inmates. Incoming mail could be read by designated personnel and censored solely for the purposes of protecting the safety and security of the jail. The sender of censored mail was to be identified to

the inmate in writing. Censored mail was to be kept in a safe place and given to the inmate upon his release from the jail. Special correspondence, letters between inmates and certain designated people such as attorneys, and members of the New York State Legislature or the New York State Commission of Correction was subject only to limited control. It could be examined to insure the absence of contraband but was to be sealed in the presence of the inmate and was not to be read or censored by prison officials. Incoming special correspondence could be opened and inspected for contraband in the presence of the inmate but could not be read or censored. The services of a notary public were to be made available to the inmates. The stipulation required that each inmate be informed that he was allowed to make one local telephone call without charge to communicate with an attorney, relative, employer or other individual. Inmates were to be permitted to make these calls from an area where security and privacy were maintained. Unsentenced inmates without counsel were to be provided as many phone calls as they required to obtain counsel. The stipulation also incorporated the provisions of 7 N.Y.C.R.R. §§ 5100.3(b), 5100.5.

The jail has not been administered in accordance with these requirements. Inmates are not advised that they may make one free telephone call upon admission to the jail and furthermore they are not informed of or treated in accordance with the stipulation's provisions or the lawful regulations and restrictions governing mail and telephone calls. Some mail has been left for considerable periods of time without being posted. Apparently, the inmates have unequal access to the telephone. Inmates are not always permitted to make telephone calls in private. None of these violations can be attributed to a lack of funds; rather, they are simply willful violations of the stipulation.

7. Reading Materials

The stipulation allowed inmates to receive any literature except that which jail personnel censored as threatening the safety and security of the jail. Any censored literature was to be identified in writing to the inmate, kept in a safe place and returned to the inmate upon his departure from the jail.

The directive with respect to the safekeeping of publications and other censored materials is apparently not followed at all. Mail is censored according to the Sheriff's own sense of what is pornographic. There are no standards, written or otherwise, which describes limitations on the reading materials allowed into the jail. The court views this as another willful violation of the terms of the stipulation.

8. Legal Assistance

The stipulation required that any inmate who was unable to secure counsel with respect to a civil or criminal matter be permitted to consult with other inmates. The court finds no conclusive evidence of any violations with respect to this provision. It should be noted, however, that inmates keep the few available law books in their cells thus effectively denying other inmates access to them.

9. Supervision and Discipline

In addition to certain directives which have been discussed above, the stipulation required constant supervision and observation for any inmate whose physical or mental condition requires them or who needs protection from other inmates. Any inmate who appeared dangerously violent or suicidal was to be examined immediately by a physician and if advisable be removed to a facility where proper care and supervision were available. A list of rules and regulations governing inmate conduct and listing standardized operating procedures which relate thereto were to be promulgated and prominently posted in each inmate

housing area. Furthermore, the stipulation incorporated the requirements of 7 N.Y.C.R.R. §§ 5100.4, 5100.7 and New York Correction Law § 137(6) as made applicable to county jails by New York Correction Law § 500-k.

There has been a failure to comply with this section of the stipulation. There does not appear to be any adequate procedure for the segregation and observation of inmates who need special treatment for a mental and physical condition or who need protection from themselves or from other inmates. The jail physician does not visit or examine inmates who are confined to their cells, and there is no procedure for the jail physician to examine inmates who appear to be violent or suicidal. Inmates are not properly supervised in this jail nor are they adequately protected from themselves or from others. While there was some testimony to the effect that inmates were given rules and regulations when they were admitted to the jail, it is the court's belief that in most instances the rules and regulations have not been distributed to the inmates and they are not consistently applied. Actually, in their most recent form, they are contrary to the minimum standards set forth by the Correction Department and in the stipulation.

10. Alterations and Repairs to Physical Plant

The stipulation required that each cell, including isolation cells, be provided with a light fixture sufficient to permit reading and writing without causing eye strain. Adequate heating and ventilation were to be provided and all malfunctions and leaks in plumbing were to be repaired immediately without regard to the cause of the malfunction or leak.

There has been a general neglect of the maintenance of the physical plant which in the opinion of this court threatens the health and safety of all persons within the jail and which persists in spite of numerous critical reports from the New York State Commission of Correction and the Dutchess County Board of

Health. The alterations and repairs to the physical plant which were stipulated to and became a part of the order as indicated in paragraphs 9a(3), 10a, 10b, and 10c have not been complied with. There was testimony that the sink in a cell in which inmates were regularly housed has been inoperable for several months. Although lighting fixtures of a particular type will be approved by the State Correction Commission for use in cells, the Sheriff has failed to make any inquiry with respect to their installation. Where there is utter failure to attempt to provide for a certain item or to present a plan for its installation to the County Legislature, the Sheriff cannot blame his failure to act in accordance with the stipulation on the failure of the Legislature to appropriate funds for the renovation of the jail.

There was considerable testimony with respect to the problems of temperature regulation in the jail. The heating system is very difficult to control and provides extremes of temperature that are uncomfortable and unhealthy. No system for ventilation has been installed. This causes particular problems in the showers where stagnant water accumulates and wall and floor areas are deteriorating severely. This is another area in which the Sheriff has tried to rely on the failure of the County Legislature to appropriate funds for renovation; however, as the Health Department and Commission inspection reports and testimony demonstrate, minimal expenditures would be adequate to correct and or at least to improve the unsafe and annoying conditions.

II. Implementation

The stipulation directed the Sheriff to submit within 30 days of the approval of the stipulation a plan to implement the terms of paragraphs 3, 5 and 10 of the stipulation. No such plans for compliance with any of the terms of the stipulation have been submitted to the court for approval. The Sheriff has had a full knowledge and a full understanding of the terms of the stipulation, but he has

failed to comply with the terms of the stipulation and order, or to demonstrate his inability to comply with any of its terms. The Sheriff defends his failure to do so in part by alleging a failure by the plaintiffs' attorney to request his compliance. Even if the court gave credence to this unsupported assertion, it would be no excuse; the court ordered that the Sheriff submit such a plan; the plaintiffs' attorney was under no obligation to request compliance. Furthermore, the evidence submitted by the Sheriff himself contradicts his contention, and the court fully credits the evidence presented by plaintiffs' counsel that in fact the Sheriff was repeatedly notified of his obligation to submit a plan and of the consequences of his failure to do so.

While the order provides for willful contempt, it is horn book law that willfulness is not necessary in a civil contempt proceeding. There is no necessity for showing willfulness. However, it has been amply demonstrated above, and the court so finds, that with respect to most of the items which are involved in this hearing, the Sheriff is in willful contempt.

Furthermore at the very time the Sheriff entered into a stipulation in which he agreed to do something about the lighting in the cells, he actually believed that he would not be able to make any of the changes because of the Correction Commission's general requirements. To have done so amounts to a fraud on the court and is indicative of the Sheriff's approach to his obligations as imposed by the court in the original order.

Throughout these proceedings Sheriff Quinlan has been represented by counsel. Furthermore, he has been advised time and time again by Mr. Levin, the attorney for the plaintiffs in this matter, that unless he complied with the requirements of the stipulation, a contempt proceeding would be brought. At this point, it seems to me that the Sheriff has no complaint that he was not advised of

the nature of the proceedings which could be brought against him and which ultimately were brought against him after the exercise of great patience.

I find no necessity for making the officers and legislators of the County of Dutchess parties to this proceeding. In the first instance the Sheriff prepared his own budget requests, and he should have incorporated in those budget requests whatever was necessary for him to comply with the stipulation. If he has not done so it was because of a willful failure to do so rather than through neglect or from a fear that the budget request would not be approved. He bases his whole defense upon the fact that he could not obtain the necessary funds from the Dutchess County Legislature. However, a reading of this record indicates that the Sheriff made only one application with respect to obtaining funds and that was in the form of a massive capital improvement program involving some two million dollars. If the legislature in fact disapproved of this request, it would in no way exonerate the Sheriff for failure to perform under the terms of the stipulation. There is no other evidence in the record that the Sheriff has at any time made specific requests for the other items of physical repair which were required, namely, renovating the heating and ventilation system, and the shower; repairing and securing electrical boxes which were exposed; and painting and generally cleaning up the whole of the jail. Furthermore, the Sheriff has failed to take any action with respect to those items for which no or minimal expenditures were required.

Court orders are not to be neglected. They are to be meticulously obeyed, and unless the Sheriff, who is the chief law enforcement officer in the county, is willing to comply with such orders, we cannot expect the ordinary citizen to comply with them. I find that the Sheriff in this case is not only in contempt of the court order but that in respect to the items mentioned, he is willfully in contempt.

I recognize that these jail facilities were built at a time when jail populations were not so large and so varied as they are today and that we did not have the number of disturbed persons who might be in the jails by reason of the fact that jail populations were lower than they are now. I also recognize that we must do the best we can with what we have since capital funds are at this time very scarce particularly in counties of the size of Dutchess County. However, I have been informed by the state department investigators that it is possible for this jail to be in classification and I believe it is possible for the jail to be in compliance with the order. The administration of the jail at this time is shocking. It shows a completely insensitive attitude on the part of the Sheriff and on the part of his principal administrator and a total lack of concern.

As a consequence of the finding of contempt I first assess a fine against the Sheriff in the amount of five hundred dollars ($500). I will also assess against the Sheriff the plaintiffs' attorneys' fees and expenses with respect to this proceeding. Thereafter, I direct that the Sheriff will comply with the terms of the stipulation within thirty (30) days or that a plan for compliance with this decision and with the stipulation be filed with the court within those thirty (30) days. Thereafter and unless the Sheriff does so comply and does present to this court a plan for compliance with the stipulation there will be assessed against the Sheriff an amount of fifty dollars ($50) per day as a fine for continuing contempt of this court's order until such time as his plan is filed and approved by this court.

I will appoint the director of the Dutchess County Board of Health as the monitor in this matter, and I will expect the Sheriff to furnish to the court and to the attorney for the plaintiffs a monthly report as to the manner in which the stipulation is being complied with. The director of the board of health is to make monthly examinations of the jail and to report to the court that the report of the

Sheriff is in fact a true and correct report of the actions being taken by the Sheriff to remedy the various difficulties which have been noted in the decision herein. In the event that it is the finding of the director of the board of health of Dutchess County or of this court that the stipulation is not being complied with, the Sheriff will again be subjected to a fine in the amount of fifty dollars ($50) per day until such time as the deficiencies noted by the director of the board of health have been corrected, and in the event that the Sheriff persists in these actions this court upon due notice will hold a hearing to determine whether or not the Dutchess County jail should be closed.

With respect to Sargeant Farmer and the other defendants, the court finds that they have no effective control over what transpires in the Dutchess County Jail. Therefore, the court finds no contempt of the original order with respect to them.

Within three weeks of the filing of this opinion, the plaintiffs shall submit to the court a petition and supporting affidavits in support of their claim for attorneys fees and costs.

Submit Order.

DATED: New York, New York

June 21, 1976

Henry F. Werker
U.S. D. J.

APPEARANCES:

JACK P. LEVIN, ESQ.
1 Chase Manhattan Plaza
New York, New York 10005

By: Sara E. Steinbock, Esq.,
Jon Yard Arnason, Esq.
Of Counsel

Attorney for Plaintiffs

PETER L. MAROULIS, ESQ.
104 Hooker Avenue
Poughkeepsie, New York 12601

Attorney for Defendant Quinlan

JAMES D. BENSON, ESQ.
County Attorney of Dutchess County
County Office Building
Poughkeepsie, New York 12601

BY: James M. Fedorchak, Esq.
Chief Assistant
Of Counsel

Attorney for Defendants
Farmer, Boyce, Smith, and Callinan

ORDER OF WERKER, U.S.D.J. ON JULY 7, 1976
(pp. 130a-132a)

RECEIVED IN CHAMBERS OF JUDGE HENRY F. WERKER
JUL 1976

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

RAYMOND G. LASKY, NICHOLS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, and PRE-TRIAL DETAINEES,	ORDER
Plaintiffs,	73 Civ. 1666 (HFW)
-against-	
SHERIFF LAWRENCE QUINLAN, SERGEANT FARMER, JAILERS BOYCE, A. SMITH, CALLUIAN,	
Defendants.	

Plaintiffs having moved on December 8, 1975 for an order adjudging the defendant Sheriff Lawrence Quinlan (the "Sheriff") to be in civil contempt of the Court's Order of July 30, 1973, and the Court having held a hearing on that motion on February 3, 4, 5 and 6, 1976, and the Court having granted plaintiffs' motion in an opinion filed June 22, 1976, it is hereby

ORDERED that within thirty (30) days of the entry of this Order the Sheriff will pay into Court a fine in the amount of five hundred dollars ($500), and it is further

ORDERED that the Sheriff will pay the attorney's fees and expenses of plaintiffs' counsel with respect to the contempt proceeding in an amount to be fixed by the Court after consideration of a petition and supporting affidavits to be submitted by plaintiffs' counsel to the Court on due notice to counsel for the defendants on or before July 13, 1976, and it is further

ORDERED that within thirty (30) days of the entry of this Order the Sheriff will either comply with the stipulation, which is part of the Court's Order of July 30, 1973, or file with the Court a plan for compliance with the stipulation, and it is further

ORDERED that the Sheriff will pay a fine in the amount of fifty dollars ($50) per day unless, at the expiration of thirty (30) days from the entry of this Order, the Sheriff has complied with the terms of the stipulation or has submitted a plan for compliance, said fine to be assessed daily until such continuing contempt of this Order is cured by actual compliance with the stipulation or by the filing and Court approval of a plan for compliance, and it is further

ORDERED that the Sheriff will furnish to the Court and to plaintiffs' counsel a monthly report as to the manner in which the stipulation is being complied with, and it is further

ORDERED that Dr. Stephen R. Redmond of Poughkeepsie, New York is appointed to act as the monitor in this matter, and it is further

ORDERED that the monitor is to make monthly examinations of the Dutchess County Jail and to report to the Court that the monthly report of the Sheriff is in fact a true and correct report of the actions being taken by the Sheriff to comply with the stipulation, and it is further

BEST COPY AVAILABLE

ORDERED that in the event that the monitor or this Court finds that the stipulation is not being complied with, the Sheriff will pay an additional fine in the amount of fifty dollars ($50) per day until such time as compliance is achieved, and it is further

ORDERED that in the event that the Sheriff persists in failing to comply with the Orders of this Court, the Court upon due notice will hold a hearing to determine whether the Dutchess County Jail should be closed, and it is further

ORDERED with respect to defendants Sergeant Farmer and Jailers Boyce, A. Smith and Calluian, that there is no contempt of the July 30, 1973 Order by them as they have no effective control over what transpires in the Dutchess County Jail.

Dated: New York, New York
June , 1976.

U.S.D.J.

AFFIDAVIT OF JACK P. LEVIN REGARDING PLAINTIFFS' ATTORNEY FEES AND EXPENSES (pp. 133a-144a)

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

RAYMOND G. LASKY, NICHOLS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, AND THE PRE-TRIAL DETAINEES,	
Plaintiffs,	73 Civ. 1666 (HFW)
-against-	
SHERIFF LAWRENCE QUINLAN, SERGEANT FARMER, JAILERS BOYCE, A. SMITH, CALLUIAN, ET AL.,	AFFIDAVIT RESPECTING PLAINTIFFS' ATTORNEY'S FEES AND EXPENSES
Defendants.	

STATE OF NEW YORK)
: ss.:
COUNTY OF NEW YORK)

JACK P. LEVIN, being duly sworn, says:

1. I am a member of the Bar of this Court and counsel to the plaintiffs in this action. I make this affidavit in compliance with the Court's Order of July 7, 1976, which declares the defendant Sheriff Lawrence Quinlan (the "Sheriff") to be in civil contempt and which awards attorney's fees and expenses to plaintiffs in an amount to be fixed after the submission of supporting papers. This affidavit describes the work of plaintiffs' counsel from August 1, 1973 to date, the period of the contempt.

HISTORY OF THIS ACTION

2. This action was commenced pro se in April 1973 by certain inmates at the Dutchess County Jail who complained of poor conditions there. On June 19, 1973 I was appointed counsel to the plaintiffs by Hon. Murray I.

Gurfein, then a Judge of this Court and now a Judge of the United States Court of Appeals for the Second Circuit. A preliminary injunction hearing was held in early July 1973, and the action was in effect settled on July 30, 1973, when Judge Gurfein issued an Order approving a stipulation requiring the Sheriff to make extensive administrative and physical changes at the Jail. The Sheriff made no effort to comply with the Order and plaintiffs filed a contempt motion on December 8, 1975.

3. After a hearing on that motion in early February 1976, this Court issued an Opinion on June 22, 1976 finding that the Sheriff had willfully violated nearly every provision of the stipulation. The Court declared the Sheriff to be in civil contempt of the 1973 Order, imposed unconditional and conditional fines, appointed a monitor, required the filing by the Sheriff of monthly compliance reports and awarded to plaintiffs' counsel attorney's fees and expenses with respect to this contempt proceeding.

EFFORTS TO SECURE COMPLIANCE

4. Soon after the entry of Judge Gurfein's Order I made numerous efforts by letter and telephone to secure evidence of compliance with the 30-day provisions of the stipulation. These efforts were fruitless. On November 1 and December 3, 1973 I visited the Jail to determine what progress had been made. I visited with inmates as well as keeping in active communication with them via letter and telephone.

5. The Sheriff's failure to comply and the refusal of his office to provide information caused me

to begin drafting "Interrogatories Respecting Compliance With Court Order" on December 1, 1973. These interrogatories were served in early 1974. The Sheriff's answers were generally evasive and unresponsive.

6. During January, February and March, 1974 I communicated with inmates nearly every day in order to gauge compliance with the stipulation and to help them deal with the problems created by the lack of compliance. I had frequent communications with the office of the Dutchess County Attorney, counsel to the Sheriff, in a further effort to get compliance. I contacted Dutchess County District Attorney Albert M. Rosenblatt to initiate investigations of homosexual assaults in the Jail. I communicated with members of the Dutchess County Board of Representatives (now the Dutchess County Legislature) to make them aware of the problems at the Jail. These efforts seemed logical in light of the obvious local concern about the Jail but did not result in any positive action. The Court's Order still went begging.

7. By March 1974 I began speaking with staff members at the New York State Commission of Correction (the "Commission"), which at that time appeared to be working toward bringing the Jail into compliance with the Commission's "Minimum Standards and Regulations for the Management of County Jails and Penitentiaries". Compliance with the "Minimum Standards" would have constituted significant compliance with the 1973 Order. Working with the Commission, which was created by referendum after the Attica tragedy, seemed at that time to be a sensible and efficient method of achieving compliance.

8. On March 19, 1974 I began working on contempt papers, after a March 13, 1974 visit to the Jail which revealed stubborn noncompliance, but I continued my efforts to secure compliance without resort to costly and time-consuming litigation. This approach was influenced by the refusal of most knowledgeable people, including Jail guards, to speak openly about the Jail.

9. In April, May and June of 1974 I therefore initiated contacts with sympathetic legislators in Dutchess County. I addressed the May 22, 1974 meeting of the Dutchess County Board of Representatives and gave a stark description of conditions at the Jail. I fully described to the legislators the futility of my efforts to implement the stipulation and asked for their help. My plea was met with silence except for the instruction from one legislator to put my suggestions in writing. I did so and sent copies of my "Draft Proposal for the Dutchess County Jail" to the entire legislative leadership as well as to the Commission.

10. Through late 1974 and early 1975 I continued these activities and activities directed to gathering evidence in support of a contempt motion. In March 1975 I served "First Supplemental Interrogatories Respecting Compliance With Court Order". Again, the answers were evasive and unresponsive. In addition, I began to meet with Commission investigators who reported that the Commission was refusing to act on the information which the investigators were bringing out of the Dutchess County Jail. On March 24, 1975 I succeeded in getting access to certain non-confidential materials on the Jail main-

tained by the Commission in Albany, New York. On March 28, 1975 I sought other Commission documents relating to the Jail, through the issuance of a deposition subpoena and a subpoena duces tecum through the United States District Court for the Northern District of New York.

11. On March 20 and 21, 1975 two inmates committed suicide at the Jail. I visited the Jail on March 21, 1975 and conferred with Jail staff, inmates, local government officials, the Director of the Commission and the Dutchess County District Attorney's office. On April 2, 1975 I attended a closed meeting of the Commission in New York City after which the Commission voted to hold a hearing on whether the Jail should be closed.

12. On April 10, 1975 a lengthy article in The New York Times revealed, among other things, that the Commission was thwarting the work of its own investigators by requiring them to terminate their work at the Jail and to turn over to the Sheriff the evidence of criminal activity, brutality and poor administration which they had gathered in their investigations. Later that month the Standing Committee on Crime and Correction of the New York State Senate held hearings which yielded similar information.

13. On July 2, 1975 I attended the first day of the Commission hearing in Albany on the issue of whether the Jail should be closed. By that time, however, only two or three Commissioners remained. The rest had resigned in the wake of The New York Times article and the State Senate hearings. Also on July 2, 1975 I met in Poughkeepsie with

Sheriff's Deputies assigned to road patrol who were concerned about the situation in the Jail. They were organizing to secure the protection of civil service and became willing for the first time to talk with me about conditions at the Jail.

14. On July 15, 1975 I again visited Poughkeepsie to see inmates, the Jail physician and -- for the first time -- certain guards. Without the active cooperation of the guards the proof necessary to document the Sheriff's contempt might never have been obtained.

15. That proof finally came together after 29 months of personal contact with inmates, Sheriff's Deputies inside and outside the Jail, employees and citizens of Dutchess County and members of the staff of the New York State Commission of Correction. Information was assembled from hundreds of telephone calls and letters and from interviews conducted during the many trips to Poughkeepsie and Albany. This information was augmented and corroborated by daily reading of the Poughkeepsie Journal and by resort to the files of the Commission and to official records of Dutchess County, including the Sheriff's Department.

THE CONTEMPT MOTION

16. By late in the summer of 1975 it was clear that state and local government was either unable or unwilling to deal with the problems at the Jail. At my request a conference with counsel was held by Hon. Henry F. Werker on October 14, 1975 to discuss the projected motion and to set a briefing schedule. From that time until the sub-

mission of post-hearing papers I was assisted on this case by two other lawyers, a law student and a paralegal.

17. Our activities consisted of intensive interviews with several dozen prospective witnesses as well as legal research. We conducted a thorough review of all County records bearing on the Sheriff's defense of financial inability to comply with the stipulation. We travelled to Poughkeepsie on October 28-29, November 7, December 2-3 and December 30, 1975 and on January 7-8, January 12-13, January 15-16 and January 28-30, 1976. We visited Albany on November 6, 1975 to examine Commission documents and to discuss the situation with Commissioner Herman Schwartz. I returned to Albany on January 26-27, 1976 to depose Ted P. Swiderek and Paul R. Titus, Commission investigators who had just concluded a lengthy inspection of the Jail. Depositions of these men were required because the Commission declined to make its investigators available for informal discussions or for preparation as witnesses. Accordingly, deposition subpoenas had to issue once again through the Northern District of New York.

18. Plaintiffs' counsel explored all avenues for solving problems of non-compliance short of a contempt motion. Even after the filing of the contempt motion I met with the Sheriff's newly retained counsel at counsel's request to discuss his proposals for a new settlement. However, in light of the Sheriff's consistent non-compliance, further reliance on his willingness to take voluntary action was not justified.

19. The contempt motion was filed on December 8,

1975. It included a memorandum of law and a lengthy affidavit limited to clearly provable allegations. This required careful and time-consuming sifting of documents and prospective testimony so that the serious charges being made could be documented by the strongest possible evidence.

20. The preparation for and conduct of the contempt hearing consumed several weeks of full-time work by three lawyers. By February 1, 1975, the three lawyers were in Poughkeepsie to complete preparation for the contempt hearing, which was held on February 3, 4, 5 and 6, 1976.

21. After the hearing plaintiffs' counsel reviewed the record and researched the law on burden of proof and remedies. Plaintiffs filed a 92-page "Summary of the Evidence and Memorandum of Law" as well as "Proposed Findings of Fact, Conclusions of Law and Relief Requested". As stated in the Court's Opinion filed on June 22, 1976, plaintiffs proved substantially all of their allegations. Plaintiffs demonstrated that the Sheriff was willfully in contempt of nearly every aspect of the stipulation. Subsequent to the filing of the Court's Opinion plaintiffs' counsel drafted a proposed order and then redrafted the order to include changes required by the Court.

BACKGROUND OF PLAINTIFFS' COUNSEL

22. All of the legal work on this case has been done by persons associated with the firm of Davis Polk & Wardwell. I have been counsel of record but have received extremely able and dedicated assistance. For the convenience of the Court this affidavit sets forth the background and

experience of each person who worked on this case.

23. I received my law degree in 1971 from the University of Pennsylvania Law School. In 1971 and 1972 I was law clerk to Hon. Murray I. Gurfein, then a Judge of this Court and presently a Judge of the United States Court of Appeals for the Second Circuit. I was admitted to practice in New York and New Jersey in 1972 and before this Court in 1973. Since 1972 I have been an associate at Davis Polk & Wardwell.

24. Jon Yard Arnason received his J.D. from the University of Michigan Law School in 1974 and was admitted to practice in New York and before this Court in 1975. He has been an associate at Davis Polk & Wardwell since 1974.

25. Sara E. Steinbock received her J.D. in 1974 from New York University Law School and was admitted to practice in New York and before this Court in 1975. She was law clerk to Hon. Constance Baker Motley of this Court in 1975. She was an associate with Davis Polk & Wardwell in 1974 and 1975 and has been associated with that firm since 1975.

26. Jamie E. Stern received her J.D. in 1976 from Columbia Law School and is a candidate for the New York Bar. She worked for Davis Polk & Wardwell full-time during the summer of 1975 and part-time during the 1975-1976 academic year. She will be law clerk to Hon. Thomas P. Griesa of this Court beginning in the fall of 1976.

27. Russell L. Roberts received his B.A. from Vassar College in 1975 and was employed as a

paralegal at Davis Polk & Wardwell from November 1975 through June 1976.

TIME AND DISBURSEMENTS

28. When this assignment was accepted from Judge Gurfein in 1973, plaintiffs' counsel never anticipated applying to the Court for attorney's fees and expenses. This action was brought under the civil rights laws, which generally do not authorize such payments. However, it was never anticipated that the Sheriff would defy this Court's authority. The Sheriff's willful contempt entitles plaintiffs to the award of reasonable attorney's fees and expenses as an item of damage pursuant to Local Civil Rule 14(a).

29. It has recently been noted by the Second Circuit that even where counsel had no expectation of payment, the Court may award attorney's fees, where provided by statute, at the going rates for work of comparable importance and complexity. Torres v. Sachs, Dkt. Nos. 76-7002, 76-7072 (2nd Cir. June 25, 1976).

30. The Sheriff's contempt began no later than July 30, 1973, when the stipulation was signed. By that date the Sheriff committed "a fraud on the court" by agreeing to improve lighting even though he believed such lighting to be disapproved by the Commission (Opinion, p.16). This early disregard for the Court's authority "is indicative of the Sheriff's approach to his obligations as imposed by the court in the original order." (Opinion, p.16). Plaintiffs therefore seek the award of attorney's fees and expenses for the period August 1, 1973 through July 19, 1976.

31. During that period plaintiffs' counsel devoted 1,919.2 hours to this case, 1593.5 of which were spent after the October 14, 1975 conference before Judge Werker. Records are available for inspection which list the time spent by each person who worked on this case with a brief description of the work done. Plaintiffs are entitled to the fee which would normally be charged by this firm for such an expenditure of time.

32. However, this case was originally taken on as a service to the Court and to the Bar. For this reason and under the unusual circumstances of this case plaintiffs' counsel is not seeking to be paid at its regular rates. The fee sought here is designed only to make the firm whole for the salaries paid to the persons who worked on this case for the hours they devoted to the case during the period of the contempt.

33. Based upon the salaries of those persons, the composite hourly rate for that work is $18.50. At that rate, for the 1,919.2 hours of work done during the period of the contempt the attorney's fees requested amount to $35,505.20. This figure is clearly reasonable. It is far less than what a private firm would normally charge for services of comparable importance and complexity.

34. The firm's out-of-pocket expenses incurred in the prosecution of this action from August 1, 1973 through July 19, 1976 are as follows:

Overtime stenographic expense	$ 2,065.63
Travel expense	3,305.71
Telephone expense (partial)	231.33
Reproduction expense	1,534.87
Witness fees	30.00

Transcript expense	$ 1,846.70
LEXIS computer research expense	308.69
Poughkeepsie Journal subscription and copies of new opinions from court clerks	189.80
Tape recorder rental for Swiderek and Titus depositions	60.75
Total	$ 9,573.48

35. The many vouchers and receipts supporting these expense figures are available for inspection. These figures do not reflect postage or most telephone calls. These items were billed to a general account and are not retrievable. The firm's out-of-pocket expenses of $9,573.48 for this period are reasonable and all relate to the efforts of plaintiffs' counsel to get compliance with the Court's Orders. Plaintiffs therefore request the award of expenses in this amount.

WHEREFORE, plaintiffs respectfully request that the Court award to plaintiffs' counsel attorney's fees in the amount of $35,505.20 and expenses in the amount of $9,573.48 for the period of the Sheriff's contempt, August 1, 1973 through July 19, 1976.

Jack P. Levin

Sworn to before me this
20th day of July, 1976

TIBOR E. BARTHEGYI
Notary Public, State of New York
No. 31-4627044
Qualified in New York County
Commission Expires March 30, 1978

ANSWERING AFFIDAVIT OF LAWRENCE M. QUINLAN
(pp. 145a-151a)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

RAYMOND G. LASKY, NICHOLS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, AND THE PRE-TRIAL DETAINEES,

Plaintiffs,

-against-

SHERIFF LAWRENCE QUINLAN, SERGEANT FARMER, JAILERS BOYCE, A. SMITH, CALLUIAN, ET AL.,

Defendants.

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73 Civ. 1666 (HFW)

ANSWERING AFFIDAVIT RESPECTING PLAINTIFFS' ATTORNEY'S FEES AND EXPENSES

STATE OF NEW YORK)
) SS.:
COUNTY OF DUTCHESS)

LAWRENCE M. QUINLAN, being duly sworn, deposes and says:

Subsequent to the Stipulation of July 25, 1973, I responded to two sets of interrogatories. In those interrogatories I set forth what had been done and what had not been done to come into compliance with the Stipulation and Judge Gurfein's July 30, 1973 Order. Mr. Levin describes in Paragraph 9 of his Affidavit his attempts to obtain assistance from the Dutchess County Legislature. He states that his plea was met with silence. That, too, has been my experience with the Dutchess County Legislature. I do not intend to attempt to relitigate the issue as to finances. However, I want the Court to know that I have been unable to obtain from the Dutchess County Legislature the financial assistance necessary to implement those portions of the Stipulation which require funding.

On January 2, 1976, my attorney and I appeared before the leaders of the Dutchess County Legislature and the County Executive. At that time, it was related to them that Mr. Levin had brought on a Motion to hold me in contempt of Court and that I wanted to attempt to settle that Motion and this action amicably. I told that gathering that I would agree to any plan for implementation of the Stipulation agreed to by that body, my counsel and Mr. Levin. Additionally, I told that group that I would consent to having a Jail monitor.

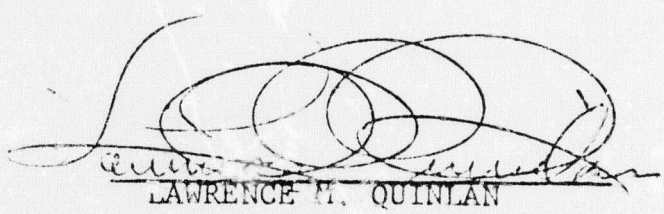
My attorney was then authorized and directed by me to relate that information to Mr. Levin. He tells me that he did so and that Mr. Levin stated that he did not trust me and would not believe me. Mr. Maroulis also told me that Mr. Levin wanted me held in contempt of Court and wanted a receiver to run the Jail. I would not volunteer to be held in contempt of Court nor would I relinquish my duty to run the Jail. I stated however that I would abide by any Plan which both Mr. Levin and the County Legislature outlined for compliance and that a monitor could be named to see to it that I was complying. I believed that the naming of a monitor would assuage Mr. Levin's fear that he could not trust me. Mr. Levin rejected this proposal and proceeded with the contempt hearing. If the proposal had been accepted, I would have had the benefit of his ideas, suggestions and views and also those of the Dutchess County Legislature. Perhaps even more important, I would have had a commitment from the Dutchess County Legislature that they would assist in implementing the provisions of that agreement with the necessary funding.

Aside from the publicity of having successfully moved to hold a Sheriff in contempt of Court, the contempt proceeding accomplished little that could not have been accomplished by the joint agreement of the County Legislature, Mr. Levin and my counsel. It must be remembered that until January, 1976, I was represented by the Dutchess County Attorney who found himself in a position of conflict of interest. That conflict was resolved by my obtaining my own lawyer. It was my hope that by obtaining private counsel that this problem could be worked out.

It now appears that the contempt proceeding provided a convenient vehicle for Mr. Levin to recover attorney's fees for all the work which he had theretofore done pro bono publico.

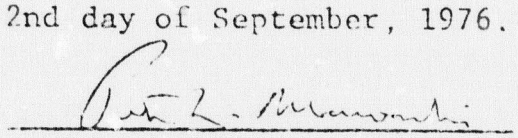
I have read his Affidavit in support of his Motion for counsel fees and disbursements. I cannot afford to pay those fees. I am a man of modest means. My financial statement is annexed.

While I have not moved with the speed or in a fashion satisfactory to the Court, I want the Court to understand that I at no time intended to deliberately flout the Court's authority. I intended to comply with all the provisions of the Stipulation to the best of my ability. I sincerely believe that I was hampered in doing so by the representation which I received by the Dutc[illegible] County Attorney's Office who themselves were caught in a conflict of interest. I don't think it is fair to penalize me beyond the scope of the penalty already imposed. I have been publicly humiliated by the Court's determination that I was in contempt of the Court's Order. I have been required to expend monies to hire my own attorney. I tried to work out an amicable solution to this problem, but plaintiffs' attorney would not trust me. I believe it is unfair to use the Court's power to require me to pay a fee that would bankrupt me. I have been told that the purpose of civil contempt is to coerce compliance. I am doing everything in my power to comply. Bankrupting me will not help. Also, there is no way in which I can extricate myself from contempt by paying such fees. My lawyer tells me that a person held in civil contempt has the "keys" to his freedom in that he can terminate the penalty by complying with the Court's Order. How can that purpose be effected by bankrupting me?



LAWRENCE M. QUINLAN

Sworn to before me this
2nd day of September, 1976.



PETER L. MAROULIS
NOTARY PUBLIC, STATE OF NEW YORK
QUALIFIED IN DUTCHESS COUNTY
COMMISSION EXPIRES MARCH 30, 1978.

Form CR 107
Statement Form Suggested By
FEDERAL RESERVE BANK OF NEW YORK

FINANCIAL STATEMENT

As of July 31, 1976

PERSONAL

148a

NAME Lawrence M. Quinlan RESIDENCE Violet Avenue-Poughkeepsie, NY
OCCUPATION OR PROFESSION Sheriff, Dutchess County BUSINESS ADDRESS 150 N. Hamilton St., Po'k, N.Y.

I make the following statement of all my assets and liabilities at the close of business on the date indicated above to

(Name and Location of Financial Institution)

and give other material information for the purpose of obtaining advances on notes and bills bearing my signature, endorsement, or guaranty, and for obtaining credit generally upon present and future applications.

ASSETS		LIABILITIES and NET WORTH	
Cash on Hand	$ None	Notes Payable to Banks — Unsecured (Direct borrowings only) (Sch. No. 1)	$ None
Cash in Banks (Sch. No. 1)	None	Notes Payable to Banks — Secured (Direct borrowings only) (Sch. No. 1)	None
Notes Receivable (Sch. No. 2)	None	Notes Payable to Others — Unsecured	None
Accounts Receivable (Sch. No. 2)	None	Notes Payable to Others — Secured	None
Loans Receivable (Sch. No. 2)	None	Accounts Payable	None
Life Insurance — Cash Surrender Value (Do not deduct loans) (Sch. No. 3)	Minute	Loans against Life Insurance (Sch. No. 3)	None
Securities — Readily Marketable (U. S. Govt. & listed on Stock Exchanges) (Sch. No. 4)	None	Real Estate Mortgages Payable (Sch. No. 7)	$9,000.00
Securities — Not Readily Marketable (Unlisted stocks & bonds) (Sch. No. 4)	None	Real Estate Taxes & Assessments Payable (Sch. No. 7)	536.00
Mortgages Owned (Sch. No. 5)	None	Federal & State Income Taxes	5,452.00
Real Estate (Sch. No. 6)	$25,000.00	Other Taxes	
Automobile(s) (Registered in own name) (2)	4,500.00	Interest Payable (On loans, mortgages, etc.)	
Other Assets (Itemize) Interest in Hunting Club (Private)	7,000.00	Brokers Margin Accounts (Sch. No. 8)	
	$36,500.00	Other Liabilities (Itemize) Loan Pay. NYS Retirement	$1,300.00
		Net Worth	
TOTAL ASSETS	$	TOTAL LIABILITIES & NET WORTH	$

SUPPLEMENTARY SCHEDULES

NOTE: The following data should be furnished as of the same date as this Financial Statement. Fill in all spaces; insert "NONE" where appropriate.

No. 1 — Banking Relations — List all bank accounts, including savings accounts:

Name and Location of Bank	Cash Balance	Amount of Loan	Indicate How Loan is Endorsed, Guaranteed or Secured
	$	$	

No. 2 — Notes, Accounts and Loans Receivable — List the largest amounts owed to you:

Name and Address of Debtor	Amount of Debt	Age of Debt	Nature of Debt	If Secured, Describe Security	Date Payment Expected
	$				

No. 3 — Life Insurance — List all policies in which you are named as the insured:

Beneficiary	Insurance Company	Type of Policy	Face Amount of Policy	Total Cash Surrender Value	Total Loans Against Policy	If Assigned, Indicate To Whom
Jean Quinlan	Prudential		$ 500.	$	$ -0-	
			3,000.	Minute	-0-	
			2,000.		-0-	
			1,000.		-0-	
			1,000.		-0-	

No. 4 — Securities — List all stocks, bonds, etc.:

Face Value (Bonds) No. of Shares (Stocks)	Description of Security	Registered Owner(s)	Cost	Market Value	Book Value	If Pledged, Indicate To Whom
			$	$	$	
NONE						

(Continued on Reverse Side)

SUPPLEMENTARY SCHEDULES — (Continued)

No. 5 — Mortgages Owned —

Location and Description of Mortgaged Properties	Assessed Value	Market Value	Amount of Owned Mortgage	Mortgage Interest Due & Unpaid	Indicate if First or Second Mortgage	Amount of Prior Mortgage
[illegible]	$ [illegible]	$	$	$		$

Mortgage Income — During the 12 month period ended ..... 19 ..., I received interest payments of $ ..... and principal payments of $ ..... on the above described mortgages.

No. 6 — Real Estate —

Location and Description of Owned Properties	Cost with Improvements	Assessed Value	Market Value	Book Value	Annual Gross Rental Income	Annual Net Rental Income (Before Depreciation)
Home-Violet Ave., Polk (Joint Ownership)	$ 11,000.	$ 12,000.	$ 25,000.	$	$	$

Title to Real Estate — The title to all of the above described properties is in my name solely, except as follows (give details): .....

No. 7 — Real Estate Mortgages Payable — List all mortgages on the above properties; follow the same sequence:

First Mortgages		Second Mortgages		Mortgage Payments Due Within One Year	Mortgage Interest Due & Unpaid	Taxes and Assessments Due & Unpaid
Amount	Maturity	Amount	Maturity			
$ 9,000.00	1985	$		$ 1,063.00	$ -0-	$ -0-

No. 8 — Brokers Margin Accounts — List the names and addresses of the brokers and indicate the net amount due to each: .....

SUPPLEMENTARY INFORMATION

Personal Data — Age 61 ; Marital Status Married (Single, married, widow(er) or divorced) ; No. of Dependents -0- ; Spouse's Name Jean .....

Income and Expense — My gross income from all sources during the 12 month period ended Dec. 1975, amounted to $ 19,924.32. My personal living expenses and those of my dependents during that period amounted to $ 13,000.00, and I had other expenses for income taxes, insurance premiums, interest on debts, etc., of $ 6,000. I expect no important changes in my income or expenses during the current year or next year, except as follows (give details): Salary to $24,000.00 .....

Contingent Liabilities — As of the date of this financial statement, I had no contingent liabilities, except as follows: Notes Receivable Discounted or Sold $; Accounts Receivable Assigned or Sold $; Co-maker $; Accommodation Endorser, Guarantor or Surety $; Mortgage Bonds $; Leases $; Claims for Taxes $; Other (describe): .....

Pledged, Assigned or Hypothecated Assets — Describe all assets not noted elsewhere in this statement as having been pledged, assigned or hypothecated and indicate the liabilities which they secure: .....

As of the date of this financial statement, I had not pledged, assigned, hypothecated or transferred the title to any of my assets, except as noted on this form or on a supporting schedule, nor has any such action been taken since that date, except as follows (give details): .....

Legal Actions — No lawsuits, claims, judgments, or other legal actions are outstanding or pending against me and, to the best of my knowledge, no legal actions are to be started against me, except as follows (give details): .....

Insurance Coverage — Fire Insurance: Buildings $, Automobile(s), Household Effects, etc. $ 7,000. ; Indicate if policies have extended coverage endorsement: ; Liability Insurance: Automotive $, Personal $ 7,500.00 General Public ; Other Insurance (describe): .....

Date of last independent analysis of insurance: ; Indicate adequacy of coverage: .....

Certification — This is to certify that all the statements contained herein and in any supporting schedules are true and give a correct showing of my financial condition as of the date indicated. I further certify that I had no liabilities, direct or contingent, business or accommodation, except as set forth in this statement, and that the title to all assets therein set forth is in my name solely, except as may be otherwise noted. IN THE EVENT OF ANY MATERIAL ADVERSE CHANGE IN MY FINANCIAL CONDITION, I AGREE TO NOTIFY THE FINANCIAL INSTITUTION NAMED HEREIN IMMEDIATELY IN WRITING.

Signed this 5th day of Sept., 19 76 [signature]

NOTE: If space is insufficient, separate schedules, which should be clearly identified as being part of this statement, may be attached hereto. Such schedules should be dated and signed in the same manner as this statement.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Affidavit was hand delivered to counsel for plaintiffs listed below this 2nd day of September, 1976.

JACK P. LEVIN, ESQ.
One Chase Manhattan Plaza
New York, NY 10005

PETER L. MAROULIS

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Affidavit was hand delivered to counsel for plaintiffs listed below this 2nd day of September, 1976.

JACK P. LEVIN, ESQ.
One Chase Manhattan Plaza
New York, NY 10005

DUTCHESS COUNTY ATTORNEY
22 Market Street
Poughkeepsie, NY 12601

PETER L. MAROULIS

bjmjb

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

----------x

RAYMOND LASKY, et al.,

Plaintiffs,

V. 73 Civ. 1666

SHERIFF LAWRENCE QUINLAN, et al.,

Defendants.

----------x

September 8, 1976
11:00 a.m.

BEFORE:

HON. HENRY F. WERKER,

District Judge.

A P P E A R A N C E S:

DAVIS, POLK & WARDWELL, ESQS.
Attorneys for plaintiffs,
One Chase Manhattan Plaza,
New York, New York
BY: JACK LEVIN, ESQ.,
JON AARONSON, ESQ.,
SARAH STEINBOCH, ESQ.,
Of Counsel

PETER L. MAROULIS, ESQ.
Attorney for defendant Quinlan,
104 Hooker Avenue,
Poughkeepsie, New York 12601

THE COURT: You may proceed, Mr. Levin.

MR. LEVIN: Your Honor, the hearing this morning in the case of Lasky versus Quinlan is in two parts. The first will deal with the application of plaintiffs for attorneys' fees and expenses. The second will deal with the status of the Sheriff's compliance with this court's order of July 9, 1976.

We will tender briefly two witnesses on the issue of reasonableness of the fee. The first witness will testify to the reasonableness based upon efforts of this type of litigation and reasonableness based upon the hourly rates of this type of work in the City of New York. We will call Joel Berger, the first witness.

XXX J O E L B E R G E R, called as a witness after being first duly sworn, testified as follows:

MR. MAROULIS: Your Honor, if I might at this point, before the witness proceeds, I have a preliminary matter that I would like to touch on.

THE COURT: All right.

MR. MAROULIS: I submitted an answering affidavit to the court. It was called to my attention that the certificate of service showed only service upon Mr. Levin. Actually both the Dutchess County attorney and Mr. Levin were served on that day.

I have another certificate of service I would like to submit.

THE COURT: Fine. All right, Mr. Levin.

DIRECT EXAMINATION

XXX

BY MR. LEVIN:

Q Mr. Berger, are you a member of the bar of the State of New York?

A Yes, I am.

Q How long have you been a member of the bar?

A Since 1968.

Q Are you a member of the bar of this court?

A Yes.

Q How are you employed?

A By the Legal Aid Society of New York City.

Q How long have you been with the Legal Aid Society?

A Since 1968.

Q Can you tell the court in what capacities you served with Legal Aid since 1968?

A Yes. For the first three years I was in the Criminal Appeals Bureau handling appellant matters. I then became co-director. Since March of 1973, I have been the sole director of the Society's Prisoners' Civil Rights Protection, an office that does litigation primarily in the Federal Courts and Civil Rights Acts concerning conditions

and practices in the New York City and State prison systems.

Q Mr. Berger, is the kind of work in which you are engaged similar to the kind of work involved in this case?

A Yes.

Q Have you reviewed the papers and proceedings in this action to date?

A Yes, I have.

Q Have you read my affidavit respecting plaintiffs' attorneys' fees and expenses?

A Yes.

Q Are you familiar with the kinds of work done and the hours spent with respect to the contempt motion in this case?

A Generally, yes.

Q Do you have an opinion about the reasonableness of the hours in light of the motion and the nature of the case?

A Yes, I do.

Q What is that opinion?

A It takes a great deal of work to prepare for a situation of this kind. I think prisoners' rights litigation is particularly unique in the sense that you are dealing with closed institutions and it is hard to get to the truth of what is going on.

Your primary source of information is going to be the inmates and there you have to do a great deal of digging. Inmates are usually not the most articulate, best educated people in the world. You have to talk to a great number of them to get an accurate picture of what is going on. They tend to -- they rely heavily on information they have gotten through the grapevine. Frequently what you are told is double or triple hearsay. You have to check with many different inmates to get an accurate story.

In most prisons, particularly detention institutions, you have a lot of turnover so that inmates you have finally come to trust as good sources will leave and new ones will come and you have to start all over again. Most prisons are subdivided in some way into various blocks, floors, tiers where the inmates do not interact so that you have to -- you have to talk to people on different tiers or floors or blocks to get an overall picture of what is going on.

It may turn out that on one day or for one week or one month there was a good officers on a particular tier and he was doing what he was supposed to be doing and you find that that does not continue or that is not true of the rest of the jail.

I think that because of the difficulties that you

have with inmate witnesses, you have to make a great number of visits which is always a problem when the institution is not terribly close to your office as in this case. Telephone calls and letters with witnesses of this sort just are not sufficient.

I think another observation about this particular motion is that most of the issues were the hardest kinds of issues to monitor. It was not "Have you completed the recreation area? Have you completed the lighting yet?" They were the kinds of issues that go on endlessly on a day-to-day basis. "Have enough towels and sheets been distributed? Has the mail been delivered on time? Have people been allowed to make telephone calls and to do so in an atmosphere of privacy?" These things can get better and a month later worse again. It requires constant surveillance.

Q Based upon your analysis of the problems of this type of case, Mr. Berger, do you have an opinion as to whether the number of hours spent in the contempt motion was reasonable?

A Generally, yes. I could not vouch for the precise number of hours. I have not made that kind of intensive study of it, but looking over your affidavit, it seems to me this kind of preparation is necessary, the

numerous trips to the jail and the numerous efforts to speak to inmates and get other sources of information. This is standard, yes.

MR. LEVIN: I have no further questions, your Honor.

THE COURT: Mr. Maroulis.

B2

CROSS EXAMINATION

BY MR. MAROULIS:

Q With regard to your experience in handling cases of this type, is it normal to try to attempt to work out a solution with the particular jailer or authority involved?

A Oh, yes.

Q In your experience, are most of your cases settled in such a fashion?

A Unfortunately, no.

Q With regard to bringing on motions to enforce orders of the court such as a contempt motion, is it your experience that you have held conferences with counsel on the opposing side to try to work out an amicable solution short of a contempt proceeding?

A Yes.

Q You are familiar with the papers in this case, is that correct?

A I've reviewed them generally, yes.

Q In your judgment, would it have been helpful to have the governmental agency which is the owner of the jail a participant in the discussions and negotiations concerning the settlement of the jail problem?

I am referring specifically to the County of Dutchess.

MR. LEVIN: Your Honor, I object to that question. Is Mr. Maroulis asking for a legal conclusion?

MR. MAROULIS: I am asking, based upon his experience in settling matters of this sort --

THE COURT: I think actually, Mr. Maroulis, we are far beyond the question of settlement. I think the court made a finding to the effect that this stipulation and order had been in effect for over two years and that Mr. Levin has made all kinds of communications attempting to obtain from your client a stipulation.

I think the question of whether the county should have been a party or not is not for this hearing and whether or not this gentleman would have included the county as a party. It is beyond the scope of this hearing.

MR. MAROULIS: If I might be heard on that, your Honor. What I intend to try to focus on by this area of questioning is with regard to the number of hours that had to be expended and whether or not in this man's

judgment having the county participate in those discussions would have been helpful so as to expedite a solution to the problem.

I would believe that that would be relevant.

THE COURT: I think the correspondence in the Sheriff's file will show that Mr. Levin appeared any number of times before the County Board and before various committees. Consequently, I do not think it is relevant whatsoever. I am sure he was not charging time for those appearances.

BY MR. MARCULIS:

Q With regard to the contempt motion itself, you have read those papers?

A Yes, the huge affidavit and huge post-trial brief I have looked over generally. I could not remember everything in them.

Q Are you or have you been informed of suggestions on the part of the defendant Quinlan communicated to plaintiffs' counsel that a monitor be appointed in lieu of conducting contempt proceedings?

A Yes, that was in your affidavit, I believe, in response to the opposition to attorneys' fees, yes.

Q Do you believe that such an arrangement, based upon your experience in handling these matters, would have

been helpful in attempting to bring about compliance with the court's order?

A Well, at the late date which the proposal had been made after the motion was filed and after the numerous efforts had been made to settle the matter short of a contempt motion, it is the kind of offer which at that eleventh hour you have to view with a certain degree of suspicion.

I would say this. If I had been told at that stage, "I will let you have a monitor and you can pick the monitor," and that is something I would have to think about. But if I am told that I can have a monitor that is agreed upon by mutual consent and you may not be able to get the kind of person you want and that, plus the fact that the offer was made at the eleventh hour, I don't think I would have accepted it under these circumstances.

Q Would it affect your judgment and your answer to that question if new counsel had just arrived on the scene?

A Frankly, no, because I have found that in my experience with New York City -- and in our case about the Tombs and single-call occupancy, when you have turnover in the Corporation Counsel's office, it usually becomes an attempt to delay longer and the new lawyer says, "I am a new man here and trust me," and despite what has gone on

in the past that frequently can delay matters several more months.

Q Has that been your experience also with private counsel who have replaced public counsel?

A I don't think in any of your major class actions we have ever dealt with private counsel.

Q So that you could not frame an opinion as to what your judgment would have been with regard to a change which included private counsel instead of public counsel?

MR. LEVIN: Your Honor, I object. I think we are getting far afield. It is not at all relevant.

THE COURT: I sustain the objection.

MR. MAROULIS: I have nothing further.

THE COURT: Mr. Levin.

MR. LEVIN: Nothing further, your Honor.

Your Honor, before calling the next witness, I feel constrained to reply to an observation that your Honor made about whether hours are being charged for any appearance before the legislature. At least one appearance is set forth in my affidavit representing my affidavit for attorneys' fees. I feel fairly certain that much more time than that occasion is in this case.

It is difficult to distinguish my efforts toward the county and whether I was dealing with the county

legislature or the county attorney's office which up to the first of this year was representing the Sheriff.

Most of the efforts by the county were with the county attorney's office and numerous phone calls for whom the county attorney acts as counsel, but not in this particular case. I would like to make that clear to the court.

The plaintiffs call Whitney North Seymour, Jr.

XXX W H I T N E Y N O R T H S E Y M O U R, J R.,

called as a witness after being first duly sworn, testified:

XXX DIRECT EXAMINATION

BY MR. LEVIN:

Q Will you state your name and address?

A Whitney North Seymour, Jr., 1 Battery Park Plaza.

Q Mr. Seymour, are you a member of the bar of the State of New York?

A I am.

Q How long have you been a member of the bar?

A Almost 26 years. I was admitted in 1950.

Q Are you a member of the bar of this court?

A I am.

Q How are you now employed, sir?

A I'm a partner in the law firm of Simpson, Thatcher

& Bartlett in New York City.

Q You are engaged in private practice?

A I am specializing in litigation.

Q Prior to your current status as a partner of that firm, how were you employed?

A Immediately prior to my present employment I was United States Attorney for the Southern District of New York between January of 1970 and June of 1973.

I had been a partner in Simpson, Thatcher before that time as well.

Q Mr. Seymour, are you familiar with the papers and proceedings in this action to date?

A I am. Those which counsel supplied to me.

B3 Q Have you read my affidavit representing plaintiffs' attorneys' fees and expenses?

A I have.

Q Are you familiar with the kinds of work done in this case and the hours worked on this contempt motion?

A Primarily, based on your papers and my general knowledge of the problems of prisoners' rights and detention facilities, and that sort of thing, yes.

Q Are you familiar with the hourly rates commonly charged by lawyers in the City of New York for a case of this complexity and importance?

A I am.

Q Do you have an opinion as to the reasonableness of the fees applied for in this action?

A I do.

Q What is that opinion?

A That it is more than reasonable. Indeed, exceedingly fair under the circumstances. I would like to explain the basis for the opinion, if I may.

There are two or three yardsticks. I start off, of course, accepting the facts in your affidavit as to the hours worked and the various court appearances. One of the factors I have in mind is the statutory fees provided in Federal Court for assigned counsel of $30 an hour for courtroom time and $20 an hour for outside time.

Based on that and my inquiry of the attorneys' time on this matter, and I exlude in that calculation time spent before the legislature and between the time of the stipulation and order and the commencement of this matter, and I come out to a fee, if it were on the statutory basis, substantially higher than the one that you have proposed to the court.

Another reference point, first, is my familiarity with the quality of legal representation in a large New York law firm. Having examined your papers, although I

was not present at the hearing before the court, I can at least, on the basis of those papers and my familiarity with those papers, judge the care with which they were prepared and their thoroughness and lucidity, if I may say so, and a reflection of the work that is incorporated in those papers and in the court's opinion indicating that the court relies on the responsibility of counsel which also adds to the weight of the value of those services because they were obviously rendered in a high professional way.

Now, there are several yardsticks for private fees here and one would be the fees charged by a private practitioner with no overhead and customarily working in the Criminal Courts where the fee level would be less than that charged by a large law firm with substantial support services and more complex legal research and by definition a more comprehensive legal and factual approach to the issues as they come along because the resources are there.

But, even using the single practitioner's measure, in light of the hours, the fee would come out substantially above what you have proposed.

If the fee were calculated on the basis of a comparable law firm to your law firm to a private client

for the nature of the work done here in a litigated matter, the fee would, in my experience and judgment, range from three times to six times what you proposed here.

In light of all those factors I come to a judgment that it is an eminently fair proposal. Indeed, if anything, if one were to spread it out on an hourly basis, it probably would end up cutting the floor out from the professional market. I hope it would not, but I think it is fair.

MR. LEVIN: I have no further questions, your Honor.

MR. MAROULIS: No questions, your Honor.

MR. LEVIN: Your Honor, that concludes the plaintiffs' presentation with respect to the question of the reasonableness of the fee applied for.

Before we move on to other matters, I would like to reply on the record as I did by letter to your Honor this morning on at least one issue raised by the Sheriff in the affidavit which he filed last Thursday.

He would have the court consider his ability to pay a judgment for attorneys' fees and disbursements in fixing the amount. The plaintiffs' position is that the Sheriff's ability to pay is not relevant in a case where he has been held in contempt and where attorneys' fees

are awarded as damages pursuant to local Civil Rule 14 of this court. Plaintiffs would hope that your Honor would rule accordingly.

If your Honor feels that it is in any part relevant, we would request sometime for which to brief the point from a legal standpoint and take discovery limited to the Sheriff's actual ability to pay.

In addition to the financial statement attached to the Sheriff's affidavit, and Mr. Maroulis has supplied me with the Sheriff's 1975 tax return, and with the financial statement, the tax return and the modest amount of inquiry I hav been able to do since receiving the papers, there are substantial questions in my mind with respect to the Sheriff's ability to pay.

If the court rules it relevant, I would appreciate time to go into it. We feel it is not relevant and a detour not worth taking.

THE COURT: All right.

MR. MAROULIS: Your Honor, I believe that the Sheriff's ability to pay is at the heart of this matter. I believe also that it is one of the foundations behind Rule 14. The rationale that I offer to the court is that in order for a person to come into compliance with the court's order Rule 14 provides that if he wants to be

obstinant enough to be pushed into a position of conducting a hearing on that inquiry, then he is on notice that if he loses he could well be required to pay the attorneys' fees of the opposing counsel.

I think with regard to that particular matter, the relevance of Sheriff Quinlan's financial statement and his ability to pay becomes paramount. I believe also that in the context of this case where there was a declared conflict of interest between the county attorney and the Sheriff which was resolved by this court sometime during the beginning of January of 1976 by permitting the withdrawal of the Dutchess County attorney as the Sheriff's representative, and during that period of time the Sheriff, having retained the private counsel who made overtures to the plaintiffs' attorneys that there be a settlement, that went beyond the scope of discussions that had theretofore been held by plaintiffs' counsel and the county attorney, namely, by having a monitor named to see to it that the provisions of the stipulation of July 25, 1973 and the court's order of July 30, 1973 were being complied with.

B4 Additionally, holding conferences was suggested to plaintiffs' counsel with members of the Dutchess County legislature to try to implement the findings of the monitor to obtain the necessary funding for certain areas of

compliance.

I believe that those factors -- that the Sheriff at that point at least, but certainly at the point when he had new counsel, was willing to sit down and make the movement that was necessary to provide the plaintiffs' attorneys with a vehicle to assure himself that there was compliance or if there were non-compliance, to be able to delineate and define that area.

I believe that there is no question, certainly no question in my mind, that one of the impelling motivations of the Sheriff was to avoid a contempt hearing, to avoid a finding of contempt, and also to avoid having to pay plaintiffs' attorneys' fees.

I, therefore, believe that his financial status in this contention becomes most relevant.

THE COURT: Well, though, I won't listen to any more on that. As far as I am concerned, the matter of damages never involves a question of the financial status of the person against whom they are assessed and I do not think it applies here so that with respect to the question of the Sheriff's ability to pay, I am not going to take that into consideration.

Do you have any evidence to submit with respect to the fee question?

MR. MAROULIS: As to the issue of the amount?

THE COURT: The amount and hours.

MR. MAROULIS: No, your Honor. I do wish to state for the record that my disagreement with the court's ruling to preserve whatever rights the Sheriff has with regard to the issue of relevance of his ability to pay attorneys' fees which would be assessed under Rule 14.

I want to preserve whatever rights the Sheriff has on that issue.

THE COURT: You have an exception on the record.

Mr. Levin.

MR. LEVIN: Your Honor, if the court has no further questions with respect to attorneys' fees, I would like to move onto the issue of compliance.

THE COURT: Yes.

MR. LEVIN: I responded by letter to the plan submitted by the Sheriff pursuant to the court's July 9, 1976 order and last week I received from the Sheriff, in addition to his affidavit, a letter as well as a marked-up version of the plan with exhibits setting forth the status of the compliance at the present time.

I am told by Dr. Redmond, who was appointed by your Honor as monitor in this case, that he performed a two-hour inspection of the facility on Friday, and that

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while he still found that there were substantial areas of non-compliance, that there had been substantial progress as well.

Given that fact and the apparent making of some progress in this matter, I think it preferable not to impose upon the court's time to defer any consideration of problems of the clients until we know that counsel cannot work them out.

What I think might be helpful at this time is for Dr. Redmond to report to the court on what he has done and have him report to you.

MR. MAROULIS: Your Honor, if I might be heard on that. I too join in Mr. Levin's request. I would like to expand a little bit on it.

I think it might be helpful to Dr. Redmond and to the Sheriff if the court would outline for Dr. Redmond the scope of his authority. We have indicated to Dr. Redmond informally that whatever he wants he will get. I would feel more comfortable about that if the court were to make some direction or give some guidance in that area.

THE COURT: All right. Dr. Redmond, will you come up.

XXX D R. S T E P H E N R E D M O N D, called as a witness after being first duly sworn, testified as follows:

THE COURT: Dr. Redmond, you have made an inspection as of Friday and can you tell us what you found generally?

THE WITNESS: I have written up an inspection report and I would prefer to read that.

THE COURT: Have Mr. Maroulis and Mr. Levin both gotten a copy of it?

THE WITNESS: No, sir, over the holiday weekend I could not get it typed, but I will make a copy available to them.

THE COURT: See that copies are supplied to them.

THE WITNESS: I would say one thing, I spent two hours on September 3rd at 1 p.m. to about 3 p.m. inspecting the Dutchess County Jail and that was on one hour's notice. I kind of view this as a preliminary inspection.

I have made up an inspection form and submitted a copy to your clerk, but I felt I would like to go through and see how it can be used as an instrument. I think I will probably revise it a little bit, but I can give you my impressions. I think overall I noticed that the jail seemed somewhat cleaner than it had been on the past visit. My past visit was quite a while ago.

On a one-hour notice, I think this was real

improvement. A great deal of evidence of repainting in almost every area of the jail I went to. However, I also detected a great deal of administrative confusion. The records still are less than adequate in the medical section and the replacement man who showed me the medical records room could not locate medications or an air wave in the medical room. The rescussitation equipment was located and it took us a full minute to enter the jailer's room and from that room to get it to where the inmates might need it again, another period of minutes. That is much too long a period and should the person have a cardiac arrest, you have three or four minutes to reach the individual. So this equipment I do not feel is really available for emergencies.

THE COURT: Were the oxygen tanks full?

THE WITNESS: Yes, they were. However, no emergency tray with commonly-used medical equipment to handle an emergency was available. I am talking about things like adrenalin and injectible medications. These are things reasonably cheap and could be done cheaply.

Only three men trained to do rescussitation were in the jail. I feel at least one and preferably two such persons should be on duty at all times in the jail.

I understand from the Sheriff that efforts are

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being made to remedy the situation, but it is something urgent.

B5 I can give you a godd example of a situation that might arise. If a man was outside or inside the jail and bitten by a bee or yellow jacket, this can lead to death in a few minutes and this can be remedied by an injection. The oxygen tanks, as I said, were charged and were operational. Generally, on the medical records themselves, no diagnosis for the patient. I feel this is a must in any medical record.

The physician often has a note and some of them are not legible but a great deal of work and the physician is in at present. I think the man is available but I think his recordkeeping should be improved. A standard physical examination form and record note should be used. There is not one and basic measurements like height, weight, vital signs should be recorded on the record. They are often absent.

Mr. Vincent and Mr. Rayburn were sure that the nurse came for four one-half day sessions, but they could not agree which days the nurse came. I found that to be rather surprising since Mr. Vincent is the man that runs the jail administratively. I hope to be able to get a copy of the record to find out exactly when medical personnel

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are on hand and available.

THE COURT: Doesn't the nurse have to sign in? Doesn't everyone have to sign in?

THE WITNESS: Yes, but there is a sign-in book and I would have to go back through all the records.

THE COURT: That is something for the Sheriff's staff to do.

THE WITNESS: I may check that myself, your Honor, when I have more time. There was also no provision for a back-up physician. Apparently this is left to the physician himself.

The day I was there the physician was in Albany. I did not know who was covering the jail and nobody knew who was covering the jail at the time.

I feel more nursing should be made available on an around-the-clock-basis to a population that I feel is in need of close medical supervision. Obviously you have alcoholics, drug addicts, epileptics, trauma cases in this jail and the jail population is a much sicker population than the ordinary population in the community.

No formal arrangement for transfer to local hospitals in terms of patients that might need acute type care. I was informed that the guards' whims determine which institutions should be used. I think this should

be remedied by the Sheriff and one of the area hospitals -- St. Francis would be easier since it is closer -- and they are developing an out-patient care facility there. This leads to something else.

I suggested much earlier that a medical advisory committee be formed. I have the people wind up but the Sheriff has not followed through on this suggestion. I think this kind of thing would be of some assistance.

The drug inventory really has not been established. What is established is a formulary and a formulary is more a compendium of all the drugs supposedly available.

However, it is not clear how much is available, how much has been dispensed and what remains. This is what I consider to be a perpetual inventory.

THE COURT: Are they locked?

THE WITNESS: Yes.

THE COURT: Is that used by anyone else other than the jail personnel?

THE WITNESS: It is used by the toxicologist and that still remains a mess.

THE COURT: The toxicologist ought to be moved out. He has no place in the jail and the county will find some place else for him.

THE WITNESS: The drug cabinet was disorganized.

I feel that a pharmacist should be used to develop a system of medication. I had a thought that perhaps the pharmacist at Green Haven could be of some help.

The examination room remains much the same, crammed and small and no examination light. The examining table was ripped and not cleanable and disgusting that a patient should have to sit on this thing. It does not meet minimum standard for a medical examination.

I would think the examination table could be replaced quickly without great expense. I happen to work in another community project in Dutchess County, a hypertension program, and we have had tables donated from physicians. I think these things are very available.

I could not determine on this visit, and I hope to, whether all sentenced prisoners were screened properly or whether non-sentenced prisoners were screened. However, the psychiatriac social worker has done an evaluation and I hope to spend more time going through the records and I intend to do so.

The dentist was in the same examination room up on the third floor. That area is not adequate to do an examination in. The area used by the toxicologist is the biggest mess I have seen. Junk strewn all over the place and a hazard and should be removed.

I feel ample space is in the area to have a records room and a small infirmary and a large area if it is remodeled and no great expense either.

The physical plant remains status quo. The wires are across the bars and they are a hazard. You combine that with wet floors and I think there is really a tremendous danger of someone being electrocuted. Also the floors are hazardous when they are wet. I almost fell and broke my neck.

In terms of the repainting, it is nice and clean but very smooth, like a piece of glass. There is water around from the shower areas. I think if there is any kind of remodeling that non-skid or cleanable flooring is a must because this is a safety measure and is now a hazard.

THE COURT: Concrete floors I take it.

THE WITNESS: Yes, they are. The cleaning schedule, there is a cleaning but it says, "This wing will be cleaned every day," and so forth, and it is not clear what kind of detail has gone into this.

I would like to see a more detailed cleaning schedule.

THE COURT: On each tier?

THE WITNESS: No. I think there has been an effort, your Honor, to make these things available, but

they are posted up and ripped out or torn. When I asked one or two of the guards if they had them, they would say that they had them but not with them.

I think they should keep a packet with them in the back pocket or something until they can get a bulletin board to put up.

B6 But in the area where they had not been torn, there was a schedule that had been posted in many, many areas. I think there has been an effort to do that. Mr. Vincent assured me that such a bulletin board has been ordered. I would like to get to that at the end of this.

The phone room was locked and I could not inspect that but I understand that there is a schedule for prisoners to make local phone calls and the library looks good, very, very good. There are law books available and well stocked with books.

The kitchen was reasonably clean with a few violations which I will report. I made those verbally to Mr. Hesselbach. Accurate thermometers in the freezers and a cleaning behind the stove and light covers have to be done and a lot of dust. The dishwasher has been repaired but does not have a pressure gauge. The ovens are antique and need to be replaced. Three compartments should be standard. This jail was designed when these were not considered

necessary but they really are.

I still feel there is a need for a contract with a certified pest control operator to make a minimum monthly visit to the jail and the living areas to prevent rodent and vermin problems. I understand there is a contract but on a call basis. I would feel better having somebody come and inspect it on a monthly basis. That is not an expensive item and worthwhile.

The exercise area was in use and the schedule has been posted. It is not clear to me whether the schedule meets the stipulation. I believe three times a week for each group of prisoners. That seemed fairly reasonable.

I have several questions that I would like to ask you.

THE COURT: Yes.

THE WITNESS: The first is to, perhaps, define my scope and authority, if any. I feel that I am just sort of your eyes and ears.

Number two, copies of all estimates, plans, contracts, renovation and architectural designs that the Sheriff keeps alluding to be made available to me.

Number three, I would like the opportunity to communicate privately with prisoners. I am willing to

spend time to get information from the prisoners. On this tour I was accompanied by Mr. Vincent and Mr. Squirlette.

Number four, the accident schedule should be kept indicating the nature of any accident in the jail.

The last number, number five, the last Health Department inspection was more than a year ago. As a minimum, the Health Department requires for a restaurant an inspection every six months. I would think that would be easy to arrange. A simple phone call from the Sheriff or I would be willing to do it and we can arrange this kind of inspection.

That is pretty much what I did.

THE COURT: With respect to your first question, you are my eyes and ears. You have authority from the court to make recommendations to see that the judgement is carried out and the stipulation as originally entered into is carried out. Those recommendations, of course, should be made in writing to the Sheriff.

I think the recommendations that you have made today, for instance, as to the six-month inspection, it seems to me that in view of the problems that did exist in the kitchen that may be too few, but maybe they ought to be made quarterly for the time being until we get it organized.

I understood there was some problem as to disbursements that you had made. With respect to that problem, you are to send a statement of the disbursements that you made to me and those will be assessed against the Sheriff. That is again one of his problems as the result of this order and judgment.

I think that certainly the problems that I found with this compliance and the plan for compliance has been that there is nothing to back it up. It is simply a statement. It reminds me of that old song, "Promises, Promises."

I want specific things and I think we should have, if an estimate has been obtained to do certain work in the jail, we should have copies of those estimates. I think that with respect to a lot of these items which are relatively small that application should be made immediately for emergency funds from the County Board.

Every county has emergency funds. You know it and I know it. I think an application ought to be made. If we need new sinks or showers, let's get them. They cannot be that expensive. What would you do about it if the heating system in the jail went bad? You would have to take out one or two boilers or whatever you had to do. I think this ought to be phased out and there ought to be a plan

phasing it out.

I do not think that the plan, as it stands now, is anywhere near in compliance with my order. I am willing to let the attorneys work out and phase this out in one way or another, but I am not willing to sit here forever and wait until something is actually done.

I do not know what efforts have been made with the legislature in the county or the county executive, but I can tell you now that it is not, so far as I can see, being done in that direction. Obviously you need money to do this job.

I would also say that I think Dr. Redmond ought to be consulted and furnished copies of contracts, plans, et cetera, as to what you want to do.

MR. MAROULIS: Your Honor, it is my understanding that there is a bill pending before the Dutchess County legislature applying for funds to implement certain requests of the Sheriff to come into compliance with the court's order. I believe that it would also be helpful to be able to get Dr. Redmond's views as to what should be done to come into compliance.

For example, if the Sheriff feels that to comply with item one, he should do A, B and C, it would be helpful to get Dr. Redmond's views to short-circuit things

and make it go faster.

THE COURT: Fine, all right. Now, with respect to the toxicologist and the area being used by the toxicologist, whose department does he work for?

MR. MAROULIS: The Sheriff says that he is not in the jail. I am not aware of this, your Honor.

MR. LEVIN: Your Honor, the question of whether the room is in the jail may be one of semantics. It is in the building that houses the Sheriff's Department and the jail and adjacent to that part of the building is called the jail but used for jail purposes.

E7 SHERIFF QUINLAN: Your Honor, the particular room where our laboratory is, the toxicologist uses it and it is not a part of the jail. It is part of the Sheriff's Office but they use a small portion of it because of lack of space and they use it to secure drugs and dispense them from there.

THE COURT: It seems to me that the toxicologist ought to be with the Health Department and not the Sheriff's Office.

SHERIFF QUINLAN: He is a laboratory technician who takes care of our laboratory and specifically for police purposes and our department.

THE COURT: I think when we are dealing with

human beings we ought to deal with the human beings first and thereafter think about the laboratory work.

What I am saying is that it has a connection because if that area is close to the jail, it is close to your office and no reason why it could not be used for a medical examining room.

SHERIFF QUINLAN: The only reason for it, your Honor, is that it is removed from the security.

THE COURT: The only reason for it is security. You can get security somewhere else for that purpose, believe me. I think, in view of the fact that you have a State Police lab available to you and everything else, that having a laboratory of your own may be an unneeded luxury.

SHERIFF QUINLAN: It is not sufficient. We need a laboratory and we need it immediately. We cannot wait for weeks for the services.

THE COURT: All right. Mr. Levin.

MR. LEVIN: Your Honor, my optimism was tempered by hearing the details of Dr. Redmond's statement which I was not fully familiar with.

I agree with all of your Honor's proposals and Dr. Redmond's proposals. With respect to the question of funds, I think that the ongoing problem is that while the

Sheriff has requested funds in the past, he tends to request them on his own terms. He cites $201,000 for the reconstruction of the heating system and the showers. The county has for sometime been considering a major restructuring of the jail as a building and there have been discussions between this county and they have been understandably reluctant to go ahead with major expenditures when the major status of the jail has been uncertain, but what the Sheriff has not done is what your Honor suggested.

He has not said that the court says that he has to do something about the heating system and he needs a boiler and that will hold them over for a while until they do something permanent. He has not taken steps to repair the showers.

There is a political problem here, but I think it is an easily solvable political problem. The administration in Dutchess County is a new one. While I do not want to take sides, I know that in dealing with the people that there is a willingness to do what is right, but between the squabbling the prisoners tend to suffer.

I think the immediate things can be done with no problem and no great political difficulty. I think that in addition to the Sheriff documenting the things that he is going to do, he should also set estimated dates by

when he intends to have them done. There is a tendency to rest on one's laurels and some very basic human amenities which people are being deprived of every day, and we did not address that and we gloss it over. People are suffering in that jail and there is no reason for it.

THE COURT: I have not glossed it over. I have not forgotten it. Of course I want an expectation date. It certainly is going to cost the County of Dutchess a lot more per year if that jail is closed. I think every politician has to recognize that so that I don't care what breed of cat they may be, they should understand that if we close the jail, that is going to be a teriffic burden upon the people of Dutchess County.

MR. LEVIN: Your Honor, in our requested relief, we listed as the most extreme remedy the closing of the jail. I suggested in my letter to the Sheriff, or rather to Mr. Maroulis, on August 17th that it should be understood that there is a possibility here of punitive as well as coercive sanctions being imposed.

While I do not mean to use words loosely, and I don't exercise the court's authority, the order of this court cannot be outstanding for too long. I do not think the citizens of Dutchess County or the inmates should be made to cover when punitive sanctions as well as coercive

ones might be considered.

THE COURT: Well, I would be most reluctant to exercise those punitive sanctions. I think the Sheriff understands that. If it ever came to that, I would do it. I would do it regretfully, but, Sheriff, you understand what we are talking about.

If this order and judgment is not complied with, there is always the possibility that the court can say, "I will put you in jail until it is complied with." I would not like to do that, so it behooves you to move and comply with them.

I took it, when I understood that you made application to the State Corrections Commission to close the jail, I took that as further evidence of your contempt of this court's order.

Dr. Redmond, thank you very much. I will get a copy of your report too.

Mr. Maroulis, do you have anything further?

MR. MAROULIS: Yes, your Honor. I am troubled by your Honor's construing the Sheriff's request to the Commission of Corrections to close the jail as evidence of his further or continued contempt.

I must relate to the court that I spoke with the Sheriff regarding his applying for funds to the Dutchess

County legislature and also regarding the working out of a plan for compliance, receiving suggestions from various medical people and dentists and suggestions from the plaintiffs' counsel.

I must relate to the court that the Sheriff sincerely wants to comply. He wants to terminate this problem. He wants to do what he should do.

THE COURT: I think that as a result of the directions of the court today, he should know now what he must do to do it. I want it done. I am not going to sit here forever without imposing additional monetary sanctions, believe me.

MR. MAROULIS: Your Honor, I am addressing myself to the letter to the Commission. I spoke to the Sheriff and I would like to have the court know that I am the responsible party to that. I wanted to be sure that the county legislature understood the magnitude of the problem in the event the Sheriff was unable to come into compliance because of a failure on their part, namely, the county legislature's part to assist.

I thought that it would be helpful to have all the information available, all the antecedent steps taken so that if that occurred and it became inevitable that the jail be closed, that it would be done with some

dispatch so the Sheriff would not continue to be in contempt.

B8 Exactly the opposite was intended, your Honor, from the way your Honor construed it.

THE COURT: Well, let me say this, Mr. Maroulis. I think that your contention, of course, was to impress the legislature of the county, but we don't play games with court orders. It seems to me that this was an avoidance by the Sheriff and saying, "Well, I am just not going to do all these things. I am going to close the jail."

There is no reason why it cannot exist and furnish the necessary services to the community, but it takes someone -- and I don't care whether it is the Sheriff or Mr. Vincent or whoever -- to sit down and line these things up and get estimates as to what it is going to cost in writing and with respect to many of these issues that we have the guidelines have been issued by the Corrections Commission. All the Sheriff has to do is say, "I adopt these. I swallow them whole," and publish them and issue them in booklet form to the inmates. Everyone gets a book. "Here are the guidelines."

MR. MAROULIS: I understand your Honor's position. I want the court to know that at the same time the Sheriff was, in fact, taking steps that your Honor has just out-

lined. For example, adopting rules of the Commission of Corrections. One example that comes to mind is the example on correspondence for inmates. He adopted that and reported that to the court.

THE COURT: These, of course, are meaningless unless we have some way of knowing that they have not only been adopted by the Sheriff but they are disseminated on a regular basis to the prisoners and they know the rules of the game in that jailhouse.

MR. MAROULIS: And that is the role that I see for the monitor. I would like to be certain that these things are being done and have a third person represent that to the court.

THE COURT: All right.

MR. MAROULIS: One other item, your Honor. The Sheriff relates to me, as your Honor was discussing this morning, that he does have written estimates for some of the work that is to be done. We will obtain them and forward them to the court.

THE COURT: Has the County Board been informed about this? Have they been given these estimates? Have they been asked to supply the funds to furnish this? Where is the correspondence with respect to that? Let us know.

MR. MAROULIS: We will provide that to the

court.

THE COURT: If you want me to hold off further enforcement of this order, I have to be informed of whatever you are doing. Dr. Redmond should be informed too.

MR. MAROULIS: Your Honor, this is a problem. I view the court's order and direction that a monitor be appointed as follows: That the Sheriff should comply with the items set forth and that the monitor is the fellow who is supposed to come and see that it is done. That is my understanding of it. That is why I have indicated to the monitor that any information he wants will be made available to him and all he need do is ask and we will get it to him because he is local and he is on the job.

I don't know or I don't have in mind that each time the Sheriff --

THE COURT: It appears to me at the moment that a judgment has not been complied with. The plan as submitted is unsatisfactory in so many regards, but in the major regard with respect to the specification as to what was going to be done and when and how all the way through.

Now, that I wanted to have in this plan and then the monitor would have something to work with as a, let's say, a work schedule. When is it going to be done? What has been done? We don't have anything like that. All we

have are promises.

So what I suggest you do is sit down with the Sheriff and Mr. Vincent and whoever else may be necessary and get us a revised plan which will show us dates, times, et cetera.

MR. MAROULIS: I will do that, your Honor. I would like to call your Honor's attention to the Sheriff's letter of September 2nd and the exhibit which annexes the plan where he indicates what, in fact, was done and when Mr. Levin related that problem we tried to comply with that by delineating which items in the proposals had, in fact, been accomplished.

MR. LEVIN: I have nothing further, your Honor.

THE COURT: You must understand me and, Sheriff, I want you to understand this. I do not say that there is not a bona fide will or, let's say, a bona fide contempt to do these things, but there seems to be a teriffic lack of energy and movement. He has been a police officer for many years and he knows just what I am talking about. If you sit on your hands, none of this is going to be done. You will be back here repeatedly. You have to start to move people, Sheriff. There is no other way.

All right, gentlemen, that is all.

(Hearing concluded.)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----------x

RAYMOND G. LASKY, NICHOLAS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, and PRETRIAL DETAINEES,

Plaintiffs,

- against -

SHERIFF LAWRENCE QUINLAN, SERGEANT FARMER, JAILERS, BOICE A. SMITH CALLUIAM,

Defendants.

----------x

MEMORANDUM DECISION

73 Civ. 1666 (HFW)

APPEARANCES: (See last page)

HENRY F. WERKER, D. J.

This is a proceeding to fix the fees and expenses of Jack P. Levin, Esq., attorney of record for the plaintiffs in the above-action.

On June 19, 1973 Honorable Murray I. Gurfein, then a Judge of this Court and now a Judge of the United States Court of Appeals for the Second Circuit appointed Mr. Levin to represent the plaintiffs who had originally appeared pro se. Since that time Mr. Levin and his assistants have attempted with all due diligence and endless entreaty and patience to obtain from the Sheriff and the Legislature of Dutchess County compliance with an order requiring certain improvements in the Dutchess County Jail. I specifically include the Legislature in this because they hold the purse strings and any significant improvement in the physical plant at the Dutchess County Jail ultimately rests upon them. Suffice it to say that after 29 months of stubborn resistance the Sheriff failed to comply with the order of this court dated July 30, 1973 and was held in contempt. This

application for reasonable attorneys' fees is for the period August 1, 1973 to July 19, 1976 the date of the contempt judgment and is made under Local Civil Rule 14.

A hearing was held on September 8, 1976. Petitioner produced two witnesses. Joel Berger of the Legal Aid Society of New York City, who has been engaged in prisoner rights projects in New York City prisons, on the basis of his experience and after an examination of the affidavit of Petitioner and the file, verified that the hours spent in this difficult and frustrating case were reasonable.

Petitioner also produced Whitney North Seymour, Jr. who testified as to the usual hourly rates charged in private litigation and those rates paid to attorneys appointed under the Criminal Justice Act, both being substantially higher than the $18.50 rate charged by petitioner in this case.

No witnesses were produced on the part of Sheriff Quinlan. His counsel requested additional time to produce evidence as to the Sheriff's ability to pay. That request was denied on the ground that the Sheriff's ability to pay was irrelevant.

I find that:

(1) the hours of work done in this matter are 1,919.2 hours;

(2) those hours were reasonable and required in the circumstances of this case;

(3) the rate of compensation is fixed at $18.50 per hour;

(4) the rate is reasonable and is less than the compensation paid to private criminal counsel or appointed counsel;

(5) the disbursements made by petitioner in this case were necessary and required.

Petitioner is consequently allowed fees in the amount of $35,000 and disbursements in the amount of $9, 573.48 or $44,573.48 in the aggregate for the

period August 1, 1973 to July 19, 1976. Judgment against Lawrence Quinlan may be entered for that amount and execution issue therefor.

SO ORDERED.

DATED: New York, New York

October 8, 1976

Henry F. Werker
U. S. D. J.

ORDER TO SHOW CAUSE
(Dated October 19, 1976) (pp. 198a-199a)

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

- -x

RAYMOND G. LASKY, NICHOLS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, AND THE PRE-TRIAL DETAINEES,

Plaintiffs,

73 Civ. 1666 (HFW)

-against-

ORDER TO SHOW CAUSE

SHERIFF LAWRENCE QUINLAN, SERGEANT FARBER, JAILERS BOYCE, A. SMITH, CALLUIAN, ET AL.,

Defendants.

- -x

Upon the motion of this Court, it is

ORDERED that the parties herein show cause at the United States Courthouse, Foley Square, New York, New York, in ~~Room 607~~ Courtroom 312, on October 28, 1976, at 4:30 P.M. or as soon thereafter as counsel can be heard, why this Court should not enter an order pursuant to Rule 15(a) of the Federal Rules of Civil Procedure amending the complaint herein to name the following as defendants:

The County of Dutchess;

Edward C. Schueler, individually and as the County Executive of Dutchess County; and

Stanley T. Waryas, Louis Foerschler, Paul E. Pfuetze, Jean C. Murphy, Louis A. DeBiase, Robert Robar, Joseph V. Poillucci, John Armstrong, G. Donald Finnan, Judith Bleakley, Rocco T. Digilio, Marco Caviglia, Arnold L. Baratta, Rosalie Rodas, Jack I. Dexter, Charles Miller, Glenn E. Warren, Clifford S. McMullen, Douglas A. McNoul,

Robert Morton, Daniel J. Hannigan, Joseph J. Lombardi, Gordon Wright, Kenneth Utter, Richard H. Wyman, Margaret G. Fettes, Ralph Vinchiarello, William E. Bartlett, Clyde R. Chase, Madison Sipperley, James Hart, Clayton H. Clearwater, Lucille P. Pattison, Ashleigh H. Losee and Calvin R. Smith, each individually and as members of the Dutchess County Legislature; and it is further

ORDERED that personal service of this order to show cause is deemed sufficient if copies of the same are delivered on or before October 20, 1976 at 9:00 P.M. to the attorneys for the defendants in this action.

Dated: New York, New York
October 19, 1976

Henry F. Werker
U.S.D.J.

TRANSCRIPT OF HEARING BEFORE HON. HENRY F. WERKER
DATED OCTOBER 28, 1976 (pp. 200a-287a)

UNITED STATES DISTR COURT

SOUTHERN DISTRICT OF NEW YORK

----------x

RAYMOND G. LASKY, et al., :

Petitioner, :

vs. : 73 Civ. 1666

SHERIFF LAWRENCE QUINLAN, et al., :

Respondents. :

----------x

Before:

HON. HENRY F. WERKER,

District Judge.

October 28, 1976
2:00 p.m

APPEARANCES:

JACK P. LEVIN, ESQ.,
Attorney for Petitioner
BY: JON Y. ARNASON, ESQ.,
SARA E. STEINBOCK, ESQ., of counsel

PETER L. MAROULIS, ESQ.,
Attorney for Sheriff Quinlan.

JAMES D. BENSON, ESQ.,
JAMES FEDORCHAK, ESQ.,
Attorneys for Dutchess County.

(Case called)

THE CLERK: Plaintiff ready?

MR. LEVIN: Ready.

THE CLERK: Defendant Quinlan?

MR. MAROULIS: Ready.

THE CLERK: County of Dutchess?

MR. BENSON: Ready.

THE COURT: Mr. Devin.

MR. LEVIN: Your Honor, we are here this afternoon on two motions, the first having been brought by the plaintiffs in this action, that is, a notice for further contempt sanctions.

The second is a motion brought on by the Court by way of an order to show cause dated October 19, 1976, and that motion seeks to amend the complaint in this action to include as defendants the County of Dutchess, county executive and the members of the country legislature.

With the Court's permission, we will take the motion for further contempt sanctions first. With respect to our factual presentation, plaintiffs will tender two witnesses, Dr. Redmond, the monitor appointed by the Court, and then Mr. Giardina, who is an inspector with the New York State Commission of Correction.

The plaintiffs call Dr. Redmond.

S T E V E N R E D M O N D , called as a witness by the petitioner, being first duly sworn, testified as follows:

DIRECT EXAMINATION

BY MR. LEVIN:

MR. LEVIN: Your Honor, with the Court's permission, I think it might be useful to follow the less formal format that we used at the previous hearing in which Dr. Redmond can in effect report to the Court on his activities and perceptions since the last hearing which was held on September the 8th.

THE COURT: Yes. Do that, please, Doctor.

THE WITNESS: Thank you, your Honor.

May I refer to my notes?

THE COURT: Yes.

THE WITNESS: I sent to the Court a copy of an inspection done at 8 p.m. on October 10, 1976 in the company of Mr. Jack Levin.

I was absolutely shocked on my visit, I suppose more because four weeks earlier, when I had made a previous inspection, conditions had seemed so much better, and I'd like to refer to my notes here to give you an idea of why I felt this way.

First of all, the deterioration in cleanliness

at the jail was appalling, and I think for an institution under such close scrutiny I was extremely surprised that this was the case.

When we went to two of the tiers, two old and three old, we discovered that the sheriff had not personally visited these tiers in the past three months. I found that very surprising.

The kitchen area, which was just about the first area we were into, inside the jail itself, had also deteriorated to the point where the floors, tables, sinks and drain areas were covered with roaches. They scurried almost everywhere.

The floors were filthy and stinky, indicating, I think, that they hadn't been cleaned in sometime, and I can't give an exact number of days on that, but certainly more than a few days.

On top of the stove was a pot of greasy chicken broth, which had been left out, and I asked the -- Mr. Ruger, who was with us, to please throw it away, because if this were used for food it could cause severe illness.

The meat saw was encrusted with dirt, indicating it hadn't been cleaned in a number of weeks. The slicing machine was dirty, but not encrusted.

The slop sink was filled with dirty water. This is a two-compartment sink, it was filled almost to the top, neither gentleman with us could tell us whether it was plugged or it had just been left this way, but it had a very foul odor.

A covered sandwich, which was left out on the table, was not clean and roaches were seen running in that area as well as right on the wrapping of the sandwich.

We tried to get into the drygoods area but were unable to do so because no one had a key. When I asked Mr. Ruger how he would get in if there was a fire, for instance, how how we could get in to inspect it, and he said apparently we had to kick the door in. Apparently only Mr. Hesselboch has the key, so we didn't have any access to the storage area.

The kitchen area itself was so dirty it represented a clear health hazard and showed serious neglect.

There was a severe infestation with roaches and food was left out open to contamination.

I certainly feel that if this was a restaurant type facility that it would be made immediately clear to the operator that the place was to be

immediately clearned or closed. And in my experience I can only remember, perhaps two places I personally have seen in the county that looked this bad.

We checked the medical room with the drugs, which are now locked, and again there was no access to the room so we had to call somebody in, Mr. Fusco, I believe it is, to come from home, and it took him about 15 minutes to get in. So therefore, if there was a fire in this area, again, the place could burn down before we would gain access.

There still was not an adequate medical tray with emergency equipment. This is at least the third time I've been promised it's on order and coming, but there was nothing there.

We also took a look at the room which examinations are done in, which is upstairs. The medical charts in this particular area seemed to have deteriorated. There were no evaluations on the active medical files by a psychiatric social worker for each case. In many cases I found records were written on loosele[illegible]aper that had been torn out of a notebook.

I had made the suggestion quite a long time ago that adequate forms be developed to record medical data.

In looking through the records, I think it became very obvious that the physician, Dr. Cheong, has been very conscientious about coming in to do the examinations. I tried to review the death of Claire Scovel, but with the available information I was unable to really get very far in this kind of investigation, so I wrote to the sheriff and I believe I sent a copy of my letter to the Court, requesting information about this individual. I have not received a reply to my letter from the sheriff.

But from the blotter entries it was apparent that this patient was a very severe alcoholic and was sent to the emergency room by Dr. Cheong, although some ofthe details are unclear on how that was done, and unfortunately, a physician at the emergency room failed to admit the patient.

However, it was apparent from the blotter records that the patient was self destructive, that as she climbed the bars of her cell, the notation was "fell to the floor and hurt." However, I would presume that was a matron's comment and that an examination again hadn't been done. Previously she tried to cut herself with a pencil. Apparently this patient was quite agitated.

It was not clear from the data I had whether the patient had been placed under constant observation and I felt I really couldn't comment much further on this until I had received pertinent information.

On the positive side, I think a very good system for perpetual drug inventory has been established in the medical area and that room is now physically separated from the messy equipment, but here again, if an infirmary area is to be made, it would seem to me to be an unnecessary expense to build a wall, which was done, to separate this space from the remainder of the room, and I have never been informed by the sheriff as to what his thinking was in this particular matter.

In the shadow room where prisoners are processed into the jail, I discovered the valuables of the prisoners are kept in a kind of a lost box, and I don't know how to better describe that, but it looked like two cabinets, wooden drawers; they are not locked, and in this melange are included watches and jewelry and I understand even pocket knives.

I joked with one ofthe guards and I said "I presume guns, too?"

He said, "No."

I didn't check each and every drawer to find out what was in this. But it seemed to me a very dangerous practice when prisoners are processed through this area to have men have access to any kind of a weapon, even a thing as a pen knife.

The metal detector that was there, in addition, was not operative. I had commented this could assist in providing security that seem to be a preoccupation inthe jail, but I dind't get any comment on that.

In the security area, again, there are many, many rooms, apparently in the jail, which at this time of the evening, which was rather early, are completely inaccessible, so that in case of fire it would be very difficult to put a fire out.

The general cleanliness of the jail had also deteriorated. Food and papers were found in hallways, the floors seemed to be dirty, the walls were dirty, and I noticed in the chapel there was a lot of dirt or dust on the sill; there were cigarette butts on the floors in the bathrooms and hallways.

The library was dirty, hadn't really been cleaned, and the floors in the shower rooms on the first

floor were soaking wet and very slippery. This was after everyone was I presume up in their cell.

As far as classification goes, there is one tier -- excuse me, where men and boys and seasoned and unseasoned prisoners are being placed in the same general area and they all can come out and mix when they take showyrs, and I myself do not feel that that satisfies the classification criteria in that these various classifications of prisoners can mix physically in that particular section.

I would say in summary, your Honor, that I felt there really had been a great deal of neglect and deterioration since my prior full visit which was four weeks earlier, and I was very surprised to find this.

Q Dr. Redmond, since September the 8th, have you made attempts to get in touch with Sheriff Quinlan about these problems?

A I have spoken -- I always have been available, Mr. Levin, and I indicated that to the sheriff and to his attorney, and I have spent time with his attorney this past Saturday for approximately two and a half hours, going over to the plan -- I talked to Mr. Maroulis on the telephone about this and other things, but I personally feel that I only seem to get calls from

Sheriff Quinlan's people, but I never get calls from him, and considering the magnitude of the problems, I find that surprising.

I sort of hoped to develop a more positive kind of relationship and see if we couldn't work on some of the problems.

Q When you reviewed the plan this past Saturday with Mr. Maroulis, was the sheriff present?

A No, he was not.

MR. LEVIN: Your Honor, I have no further questions of Dr. Redmond.

THE COURT: Dr. Redmond, in connection with that kitchen problem, there is one civilian employee, I believe, who runs the kitchen, is that not so?

THE WITNESS: Yes.

THE COURT: What is his name?

THE WITNESS: Mr. Hesselboch.

THE COURT: Is Mr. Hesselboch still under medication, to your knowledge?

THE WITNESS: I am not --

THE COURT: When we had the hearing in February it was indicated that he was -- he had failed to pass an examination, and that he was taking one pill a day, or something of that sort.

THE WITNESS: I have no knowledge of that.

THE COURT: Are you knowledgeable with respect to that?

THE WITNESS: No, I am not.

THE COURT: I wish you would check into that for the Court and find out what the situation is. I certainly don't want a sick man running the kitchen out there.

Mr. Maroulis.

CROSS-EXAMINATION

BY MR. MAROULIS:

Q Dr. Redmond, during our telephone conversations and your visit to my office you had several suggestions to make. I'd like you to review them for the Court, if you would.

I can be helpful to you on suggesting some of them. For example, with regard to the keys, you mentioned that there were some areas that were locked. Would you go into that?

A Yes. Well, there several areas where we could not gain access in the jail; some were offices above, but actually in the jail itself there are many areas. There is a room in the boiler area, which is behind the kitchen. We were told nobody had a key

by Mr. Traver, who took us through.

There was that area and the medical room, someone had to be summoned, the drygoods storage area, only one person had a key to that particular room.

Q I don't know if you have had an opportunity since you received this only yesterday to review the amended plan for compliance. Have you, Doctor?

A I just had a chance to read it through very quickly.

Q Would the availability of keys to all of the locked rooms to a chief jailer in the jail satisfy the requirements that you were talking about?

A I think that would be a very sensible thing to do.

Q With regard to the medical examining room, would the change of Dr. Umberger's laboratory into a medical room satisfy the space requirements for a proper medical room?

A I believe it would.

Q Would the alteration of the chapel into a medical room satisfy the need for a medical room?

A No, I don't feel it would. I think it's just a little bit too small.

Q With regard to the kitchen, you made certain

specific recommendations, am I correct, with regard to thermometers and pressure gauge?

A Yes, sir.

Q Would the installation of those items alleviate some of the problems you noted in the kitchen?

A Those would certainly alleviate some of the problems that we had mentioned, yes.

Q Would the installation of a three-bay sink in the kitchen alleviate some of the kitchen problems?

A So long as it worked it would,yes.

Q Would the replacement of defective ovens assist in upgrading the kitchen?

A Well, let me say with regard to the ovens that I haven't really personally checked the ovens. I'm not sure how to check them myself, but I think they should be evaluated by someone who knows how to do that. I haven't made that recommendation, as stated in your report. I understand the ovens don't work too well. This is what I have been led to believe. I've never gone into the details of what the problems are with the ovens.

Q With regard to getting an input on the medical, dentalproblems, was it your suggestion that a medical-dental committee be created?

A Yes, that was my suggestion three years ago, as a matter of fact.

Q In fact, you related that suggestion to me in telephone conversations and during our recent meeting, is that correct?

A That is correct.

Q Would it be fair to state that you certainly had a part in recommending the persons who should be included in such a committee?

A Yes.

Q Does the same hold true for the legal committee that is set forth in the plan?

A I believe that was really your suggestion. I h uggested that perhaps a few others be added, and I see you've added those.

Q Would it be a fair statement to make that the plan, the amended plan which was just recently submitted to the Court contains a number of recommendations that you gave to me?

A Yes, that is so.

MR. MAROULIS: I have nothing further, your Honor.

MR. LEVIN: Nothing further, your Honor.

THE COURT: I don't want to deny the County

of Dutchess. Do you have any questions to ask the doctor?

MR. BENSON: No, the county has no questions, your Honor.

THE COURT: Fine.

(Witness excused)

MR. LEVIN: Your Honor, plaintiffs call James Giardina.

J A M E S A. G I A R D I N A , called as a witness by the petitioners, being first duly sworn, testified as follows:

THE WITNESS: I am director of the Bureau of Local Facilities for the New York State Department of Corrections.

DIRECT EXAMINATION

BY MR. LEVIN:

Q Mr. Giardina, how long have you been with the commission?

A Since August 23 of 1976, this year.

Q Can you describe your duties to the Court?

A Yes. I am the administrator for the five departments for the bureau, which includes training, planning, the I&I unit, which is the investigations unit,

the sheriff's council and the citizen's review board.

Q In the course of executing your duties with the commission have you had occasion to make inspections of jails?

A Yes, I have, sir.

Q Can you tell us which jails?

A Yes, I can. Starting before the commission it was also the state institutions, which would include the Elmira Reformatory, Auburn, the Schenctady County Jail, Chemung County Jail. Also in other states, the Kankakee County Jail in Kankakee, Illinois, Cook County Jail. I have also been in and out of the Dutchess County Jail.

Q On what dates did you visit the Dutchess County Jail for the purpose of performing your duties there?

A May I refer to my notes?

Q Please.

A The first visit that I made to the Dutchess County Jail was from 9/21/76 through 9/24/76, which was an announced visit to the sheriff, and the followup visit which was not announced, was from 10/5/76 through 10/7/76.

Q Mr. Giardina, in the course of those

inspections did you take photographs of the Dutchess County Jail?

A Yes, I did, sir.

MR. LEVIN: Your Honor, Mr. Giardina has supplied me today with copies of certain photographs. He informs me that there are other government agencies interested in these photographs. He'd like permission to leave Xeroxes of them and take the originals.

THE COURT: All right.

MR. LEVIN: I have asked the clerk to mark each page with an exhibit number and we will review them photograph by photograph.

THE COURT: All right.

MR. LEVIN: Mr. Giardina also informs me that a report of his investigations is in the process of being prepared, that he has a journal of his activities with him and that he would like to report to the Court from that journal, so if it's adequate for the Court, I'd like to ask Mr. Giardina to report on both his visits, starting with the visit beginning on September 21.

THE WITNESS: May I have the pictures, please.

MR. LEVIN: Perhaps at this time for evidentiary purposes I can ask a few questions about the

pictures.

Q Mr. Giardina, would you examine Plaintiff's Exhibits 1 through 6 for identification.

A These are the pictures that I took of the Dutchess County facility on those particular occasions.

Q Were all of these pictures taken by you?

A Yes, they were.

Q Were they all taken within the Dutchess County Jail?

A That is correct.

Q Does each of the photographs represent the particular scene that you recall taking the photograph of?

A That is correct, sir.

THE COURT: Are they dated?

THE WITNESS: Yes, they are, sir.

MR. LEVIN: If I may just have a continuous motion that they be received as they are described by Mr. Giardina.

THE COURT: Let Mr. Maroulis take a look at them.

MR. MAROULIS: I have no objection to that. I'd like to inquire, however, as to where the negatives to these photographs are.

THE WITNESS: I have them in my possession. Not with me here in New York but in my office in Albany, sir.

MR. MAROULIS: Are they available to provide the Court with duplicate originals?

THE WITNESS: That is correct. We can have duplicates made, sir.

MR. MAROULIS: I would request that that be done in the future, your Honor.

THE COURT: Surely.

MR. LEVIN: Thank you. You can report to the Court chronologically, Mr. Giardina.

THE WITNESS: I think logically, and chronologically the best way to do this is to explain exactly what the commission has mandated in this particular case.

We met with the sheriff and representatives of Dutchess County on, I believe, it was 9/14/76 to discuss the status of the directives that the commission had issued, I believe, in January of this year.

And at that time we had asked the sheriff and representatives of him exactly what was the status of the 27 specific directives that the commission had given.

We went through this and at that time the sheriff and his representatives stated that they were in compliance with all 27 of the directives.

At that time I was requested by the chairman of the commission, Steven Chinlund, to verify the status of these directives by visiting the facility myself and with members of my staff.

The first occasion for this monitoring or verification of the directives took place on 9/21/76. Previous to that we had notified the sheriff that we would be coming down to monitor these directives and this was an announced visit.

We began this particular monitoring in the evening of 9/21/76 and at that time we met with Undersheriff Skorilack and with the administrative assistant Mr. Frederick Fester. We had a very superficial visit at the jail at that time. We visited the tiers very briefly. At that time we told both the Undersheriff and Mr. Fester that we would be there in the morning and we would then begin our monitoring.

We did meet the next morning, which would have been 9/22/76 and we met at that time with the sheriff, the undersheriff, the Captain Traver, Mr. Vincent, who is the administrator of the jail, and with

Mr. -- Sergeant John Farmer.

At that time I explained what our procedures would be with the sheriff and how we would go about this since it was an announced visit, and I explained to him at that time that we would be in and out of that facility at different hours of the day and the night in order to get an objective view of the conditions of the jail.

I explained to him as well that after this particular visit that our next visit would be unannounced. We wanted to give them time to at least comply or not comply with the particular directives.

Getting into the specifics after that particular time: We began interviewing individuals, both residents of that particular facility, incarcitrants, and also interviewed staff members. All told, we interviewed approximately 43 people that had direct contact with that facility.

I began taking pictures with Mr. Paul Titus, who was one of my investigators, inspectors, that particular evening, and at that time we were accompanied by several officers, one was officer Nunnally.

At that time I had asked a question about the keys and access to those particular areas in the jail where it was stated to me there were no keys. At first

officer Nunnally was reluctant and I asked him why he was reluctant because he had stated to me that he had -- he didn't have access to the keys, and he stated to me at that time that he was afraid that there might be remonstrations as far as his status within the jail.

I asked whathe meant by this and he stated that he was afraid for his job, etc. And I said, well, I would like access to these particular areas.

So he produced a set of keys at that time and we began reviewing the facility. The first place that I went outside of the control room, which I'd like to come back to, where residents are booked, was the jail -- excuse me, the kitchen of the facility.

I believe I first walked into the kitchen area at approximaely 10:30, and again I didn't mention exactly the specific times because we were being shuttled back and forth into different rooms.

However, when we did go into the kitchen area it was more than just obvious that there were roaches running about the facility on both the walls and the floors. Was in clear vision.

At that time I began taking pictures. I first went to the sink, which is in the kitchen, and which we have pictures one -- beginning on 9/22, by the way,

picture 1, which is a sink where dishes and pans are washed.

In that particular sink in this picture there are only two cockroaches that are -- can be seen visibly -- I don't know on the Xerox, your Honor, if you can see it, but on the originals you can -- there are only two cockroaches you can see in that picture but there were several in that particular sink, and there were also cockroaches under the sink, etc.

As we go tothe second picture, these were grease pans, and when I picked up the grease pans there were cockroaches in the grease pans, and I asked officer Nunnally when these pans were going to be used again and on what, and he said, well, they would cook the next day with these things.

Moving on to the third picture, there are cockroaches on the wall, there is only one that I can see from the picture, but there were several on the wall.

Moving to the fourth picture, which was in my estimation one of the most serious problems, the particular room that is depicted here is a room right off the boilerroom that has a common wall with the kitchen, the back wall of the kitchen, and at first,

again, there were no keys to this room and I asked what was in there, and it was stated that there was a storage area there.

As I pursued this a little bit further they finally said it was a bathroom, catch-all room, and I asked him to get the keys, which was done, and when the door was opened, the rubbish and garbage in that particular room was over -- I'm approximating -- four to five feet tall.

There was a filthy commode or toilet within there that had human excrement and when I kicked it -- there were cockroaches visible, but when I kicked the pile of rags, etc., the cockroaches just ran all over the room.

On picture 5, which is right below that, when I revisited on 10/5 I was told that this was taken care of, by the way. I returned on 10/5 and the rags had been removed but there had been other pans, etc., that were in that particular room, and again, cockroaches were seen at that particular occasion.

On both 9 -- on 9/22, again, in looking at the kitchen specifically, the floors were very dirty and greasy. There were cockroaches, as I mentioned, and the general cleanliness in that particular area was

deplorable. I guess that is as simplistic as I can be as far as that particular situation.

Again, staying with the kitchen, and trying to be as consistent as possible here, the pictures 6, 7, 8, 9, 10 and 11 were taken on my second visit, and the particular pans in picture 6 that were in the oven of the jail, within the kitchen, had rust on them.

I had a question in my own mind how rust could develop in such a short period of time, and I'm not a forensic expert so I don't know, but these were rusted pans within the oven itself.

On picture 7, the grease pan was left open all night and again there was a -- it would appear to be scum that was on top of the grease pan.

On picture 8 there was an open oven with chicken that was left out overnight.

On picture 9, which cannot be seen clearly by the Xerox copies, or on mind, there were quite a few cockroaches that were running around on the facility.

Picture 10, which does not show very well, there was water on the floors in the corridor.

Picture 11 again was an entranceway to the corridor before the kitchen.

Going on to the second page, namely, pictures

12, 13, 14, 15, 16 and 17 --

Q Excuse me, Mr. Giardina, just so the record is clear, pictures 1 through 5 are on Plaintiff's Exhibit 1, and pictures 6 through 11 are on Plaintiff's Exhibit 2, and you are now referring to Plaintiff's Exhibit 3, which has pictures 12 through 17?

A That is correct.

On these particular pictures, I'm not going to mention them specifically, these were backups to my visit on 10/22/76. These were taken on 10/5/76.

Again we found rusted pans and slop water in the area of the kitchen. Again, in the same sink that I found on 10/22/76, on 10/5/76 I found again cockroaches within that particular sink, and the cockroaches can be seen in the picture.

In picture 16, which was taken on 10/5/76, I had not looked at the meatcutting machine or the receiving area beyond my first visit, but as that was opened there was obviously an accumulation of decayed meat, etc., and there was an extremely strong stench that came from that.

On this particular visit I had Mr. Fester come to the jail upon the call of one of the officers, and I brought him back to show him this particular area,

and I had been told before that this was cleaned daily.

This had not been cleaned daily obviously because there was decayed meat and a stench there.

On the next day I brought this to the attention of the sheriff and the jail administrator, in the presence of Mr. Vincent, and Mr. Vincent verified that he had seen this with me.

At that time I was questioned whether or not it was an odor or a stench, and it obviously was a stench and not an odor. Even with Mr. Fester's comment.

I think in general, and again without going into extreme depth about this, we had tried to project to the administration, with the administration, the serious health hazards and sanitary conditions that were obvious to the most objective eye, and we endeavored to work with the jail administration to clean this matter up. We were talking about basically a soap and water situation that would not be a high cost to the county or to the sheriff's department.

This was brought up continually and -- in a continual manner in both investigations, although I didn't show the pictures to the shefiff, because they were only developed recently, there were other people within the

facility that verified this; in other words, the sheriff's own staff, and we were trying again to be as objective as possible.

I think enough has been said about the kitchen area.

Moving along, and leaving ghe kitchen area, going back to the control room. In the control room, which is the -- which is allegedly a secured area within the facility, there were several things that were very seriously wrong with the control room.

Number one, the security of that particular room was extremely bad.

On the date of 10/5/76, referring to Exhibit 6, photograph 23 -- on that particular evening at approximately 7:35, which I believe will stay very vivid in my mind for probably the rest of my life, I was in the facility monitoring the conditions of the control room, and at that time a female, later identified as Claire Scovel, was booked for driving while intoxicated.

While I was there two Poughkeepsie police officers brought Mrs. Scovel into the control room. In that particular room there is a sign right on the outside door that states that no handguns are to be brought

within the facility. Well, the two officers came right into the facility, which is allegedly a secured area, and were standing next to Miss Scovel and officer Nunnally, again, was on duty, he told the particular officers who I was and at that time they started to run rather hurriedly out the door and I took a picture of them, which can be seen in picture 23 as they were running out with their handguns on.

As they were interviewing Miss Scovel, I asked the officers to look at her medical history. I'm not a physician, and I don't claim to be, but she did seem somewhat nervous at that particular time, and because she was being booked for DWI, as can be seen in that picture, that is a half gallon of vodka that they had removed from her car, because she was shaking, I felt that the should be examined by a physician and I recommended that to the officers and I had asked them to contact Dr. Cheong, the jail physician.

After they interviewed her, which took about 20 minutes, I had asked whether she had been searched and I was told that she had been searched. I asked if her handbag had been searched and they said it was, and I identified myself and asked her if she would mind dumping out the contents of her purse on the

table.

She did dump the contents of the purse on the table and at that time I pill container that had a liquid in it and I asked Miss Scovel what it was and she said it was vodka.

I asked her what type of pills were in that particular container and she said they were vitamins. Which, again, I could not verify one way or the other whether this actually was vodka or vitamins or what it was, and at that time I asked the officers in charge again to secure this particular evidence because liquor was -- is obviously a contraband within the facility and she was about to be brought into the factility, into the cellblock.

To my knowledge, the next morning she was brought to the hospital and examined but she was not admitted. And I didn't have any further contact with the doctor, Dr. Cheong, after that particular point, and the next I knew is when I left on, I believe it was October 7 in the morning, and I went back to my office in Albany and I was contacted as soon as I got back to my office that she had died at 7:45 that morning.

I had obviously some very vivid memories of that particular situation.

Again in the control room, going to Exhibit 6, and a picture that was taken on 9/22/76 -- the commission had serious concern about the access and control of drugs within the facility, both illicit drug traffic and also drugs that were given to the residents for medicinal purposes.

And on 9/22/76 within the control room, as can be seen, the drugs were left out overnight -- not overnight, excuse me, they were left out after the second shift had begun. However, within the control room, people are being booked, and they are also -- also there is access of other people coming in and out. People could very easily grab these drugs, and this was pointed out to the staff.

I took another picture on 10/23/76,which is not an exhibit because it didn't show up, and this same condition was taking place, even though we had stated this to the jail personnel. So they got fouled up on this.

I believe it was Dr. Redmond who had testified-- I agree, they have done an inventory and there is now a better control of the drugs, but at that particular time there was little or no control whatsoever.

I believe that one of the other very serious

situations that we felt, as far as the commission is concerned, that was taking place again was the market structure within the jail itself.

Verbally we had discussed this with Sheriff Quinlan in the office. Mr. Titus and myself from the commission had discussed it with him, and at that time we were given a verbal chain of command of who is responsible for what activities within the jail, namely, that it was the sheriff, then the undersheriff, then Mr. Vincent, then Captain Traver, and Sergeant Farmer and then Mr. Fester. That was the jail administration within the facility.

However, when I received the written chain of command from Mr.Fester, this chain of command was not only completely corrected but two very essential people from the market structure were completely left out, namely, under Sheriff Skorilack and Captain Traver. A different chain of command was then sent to the chairman of the commission, Mr. Chinlund, and when I questioned several people concerning this chain of command, including officers within the facility, they stated that there was no clear direction fron anyone within the facility.

I tried to pursue this with Mr. Titus. In looking at the very practical application of management

on the different shifts -- at that time, just interviewing line personnel, the major complaint coming from the officers was none knew who was in charge at what particular time, especially on the second and third shifts.

A major complaint again coming from officers that were representing the deputy sheriffs and the guards was that there was no management structure that they could relate to.

I interviewed Mr. McSmith and Mr. Hess, who are the president and secretary of the deputy sheriff's unit of the CSEA, and they were -- they had stated to me that their complaints to this particular point had left -- had gone unheeded by the sheriff and the management personnel there.

They also mentioned that there was no clearcut identification of the different levels, namely, there seemed to be a contradiction on what was a jailer, who sometimes was called a corporal or sergeant, as opposed to a correction officer. Again, on a civil service listing, there was only one entrance exam and that was for a guard. And there were no other promotional exams for anyone in the facility which had been directed by the commission.

We had asked the civil service people about this,

the commissioner and deputy commissioner of the civil service, and they said they had never been submitted to the civil service people by the sheriff's department.

We found moral within the facility extremely low. In discussing with the majority of the officers their major complaint was that they were afraid to bring the conditions of the jail to the sheriff's attention, or to the management, the undersheriff or the jail administrator.

I asked them why, and so did Mr.Titus, and again they had responded that they had felt intimidated when they had brought these points to the administration.

I guess there are several other comments that could be made, but making this as brief as possible, in trying to be objective about this, I tried to look at the indication of the management to various conditions that we had found within the facility, and what I found most disturbing was that when I brought the sanitary and cockroach problem -- specifically the cockroach problem, to the attention of the jail administrators, one of the comments that was made to me concerning the cockroaches by the jail administrator was -- who had just asked Mr. Titus what his military ground was --

THE COURT: That is Mr. Vincent?

THE WITNESS: That is Mr. Vincent.

A -- was that "If you are hungry enough you will eat anything."

When I heard this particular comment, I wanted to make sure here, but after bringing this to their attention, and knowing that there were cockroaches there, and there was no followup after approximately two weeks, I began to question the intention on whether or not anything would be done, and when I found on my second visit that the conditions were the same and worse in many areas, the intentions of the jail personnel to comply with our directives was definitely in question, and I brought this back to Albany to the commissioners, and that's when we requested the attorney general's office to become involved.

There are quite a few other things that I could go into in depth, but I think this is the basis and intent of my testimony today.

THE COURT: The time is now. Go into them.

THE WITNESS: All right. If I can go again --

THE COURT: Incidentally, with respect to Miss Scovel, when you saw her, did she appear to

be intoxicated.

THE WITNESS: No, she didn't, your Honor.

THE COURT: You said she appeared to be nervous.

THE WITNESS: Nervous and shaky.

THE COURT: Do you remember what her coloring was?

THE WITNESS: Yes, I do. She looked slightly tanned, slightly brownish tan complexion.

THE COURT: Did she appear ill to you?

THE WITNESS: Yes, she did, your Honor.

THE COURT: All right.

THE WITNESS: I guess again going back to the security aspects of the facility. One of our directives within the mandates that were given to the facility were with respect to security, and we had asked that periodic shakedowns, namely, inspections of the individual cells take place frequently and unannounced.

I believe -- I have a copy of the shakedowns that have taken place from 3/8/76; 1/13/76 through 10 -- this is something I couldn't understand -- it states 10/28/76, and I was not at the facility at 10/28/76.

This was an indication to me thatsome of the

records withinthe facility had been tampered with. Obviously, I had left Dutchess County on 10/7/76 and this partiuclar -- it might be a typo, but itwas written in at 10/28/76.

This was a listing of the shakedowns that had taken place within the facility, and in some cases a whole month had gone by without a shakedown within the facility.

When I questioned the officers concerning this, they stated to me that -- to use their terminology, "Shakedowns were a joke within the facility, and this contrband" and allegedly, because I was not able to verify this -- "was commonplace."

This is -- the shakedowns -- there was a brief shakedown that took place, I believe, on 10/6/76, from my best recollection, a brief one on one of the tiers because marijuana had been confiscated the weekend before and I had found some things myself that I felt, namely, a waterpipe which I didn't have the authority to remove from there, were contraband, left in the cell.

On that same day, on 10/6/76, in the morning, I was on the first tier of old south and again it was relatively evident that cockroaches were rampant on the tiers themselves and some of the inmates,

incarcitrants that were there at that time were voluntarily killingthem and depositing them in a cup for me because they felt I could keep them as evidence, and I told them I didn't want to carry them back to Albany with me in my briefcase, so we flushed them down the toilet.

But at that same time there was an accumulation of excrement that was inthe cells of that particular facility -- tier. There was also a shower there that had been inoperable, according to both the guards and to the residents there, for approximately a year and a half.

When I asked some of the residents how they knew this over a year and a half, because obviously they had not been there for a year and a half, they stated that a couple of the inmates had been there several times over that period of time for different charges, and when I talked to the officers, that was veryified that this particular shower hadn't been taken care of over that period.

Q Mr. Giardina, if I can interrupt you for a moment. I have had a three-page document marked as Plaintiff's Exhibit 7 -- a four -page document marked as Plaintiff's Exhibit 7 for identification. Was this

document generated by you or by someone in the jail, to your knowledge?

A That's a Xerox copy of the actual shakedown log from the facility.

Q Where is the shakedown log maintained?

A When I received that, that was in Mr. Fester's office, which is right down the hall from the control room.

Q Did you make a Xerox copy of these pages?

A That is the Xerox of the shakedown log.

Q Were there additional pages to the log?

A No. That was the entire log that I could find. I had asked them how long this has been taking place, and according to Mr.Fester, those were the only four pages since the time of his employment. That was the complete shakedown log.

Q Did you make a Xerox of the original, that is reflected in this document?

A That is correct.

MR. LEVIN: Your Honor, at this point I'd move that this exhibit, Exhibit 7, be received in evidence as well as the prior six exhibits, as to which Mr. Giardina has testified.

THE COURT: They may be received.

(Plaintiff's Exhibits 1 through 7 were received in evidence)

THE WITNESS: Moving to one other area that seemed quite serious in our mind was the disciplinary area of the facility. In other words, if there was a violation of the standards, state standards for residents, etc., how were inmates disciplined?

One ofthe directives that the commission had given to the sheriff was that he personally review any disciplinary action that took place within the facility. This has definitely not been done.

Again, when I took a log or a Xerox of the log, Sheriff Quinlan has not personally monitored the disciplinary reports that were there.

Again, they were extremely sketchy, to say the least. The only notation was a notation by Mr. Vincent where he initialed them. I believe I brought a copy of that with me. This is a disciplinary record of the log as of 9/23/76, and it goes back as far as 8 -- excuse me -- 7/16/76 is the farthest back that the disciplinary log goes.

The initials are from both Fester and Mr. Vincent. When I asked for further logs which had been requested by the commission, they weren't able to come

up with these particular logs.

I can honestly say that I didn't ask Sheriff Quinlan why he had not logged this, but it was one of the specific directives.

As can be noted in those particular notes, the only thing that was mentioned as far as the disciplinary action were the initials K. L. I asked what this meant and it meant keep locked, which means a person is locked in his particular cell for X amount of time. Those times are sometimes mentioned in the log, whether it's five days or seven days, etc.

I had asked, because it is again part of the minimum standards, whether or not if a person is locked away like this he is checked by a physician, and they weren't checking him with the physician at this particular time. We have found in the past, not in this particular facility, but across the board, that this is a chance many times that suicides take place, and this is why we are asking that either a psychological social worker or an MD check these particular people, and this hadn't been taking place.

Q Mr. Giardina, as Plaintiff's Exhibit 8, which is the four-page document to which you have been referring--

A That is correct.

Q That is the list of disciplinary actions taken by the jail that you have just referred to?

A That is correct.

Q Where was this list taken from?

A This particular list was supplied to me -- the log, I should say, in the control room, and I believe it was Mr. Fester that -- excuse me, Sergeant Farmer that had that Xeroxed for me.

Q Was this log part of a larger book of papers?

A Yes. But those were the only papers in there. In other words, the other pages were blank.

Q Was this separate from Plaintiff's Exhibit 7, which you identified as the list of shakedowns?

A That is correct, sir.

Q So there were two separate logs in two separate books?

A That is correct.

MR. LEVIN: Your Honor, I move that Plaintiff's Exhibit 8 be received.

THE COURT: Yes.

MR. MAROULIS: I'd like to ask a few questions on this particular exhibit.

THE COURT: Yes.

VOIR DIRE EXAMINATION

BY MR. MAROULIS:

Q Mr. Giardina, with regard to Exhibit 8 for identification, did you inquire as to whether or not there were reports kept of each incident that was later logged in a book?

A Yes, I did.

Q Of whom did you inquire?

A There were two people there that particular time; Mr. Fester was there and I believe it was officer Nunnally at that particular time.

Q Were you shown any disciplinary reports which relate to the incidents that are logged in Exhibit 8 for identification?

A Yes, I did ask for them. But I didn't receive -- I wanted to check and balance the reports with those particular logs. Some of the sheets weren't able to be verified.

bslt 1 Giardina-direct

Q So that you would be unable to state for the Court whether or not the sheriff reviewed the disciplinary reports themselves?

A He had not initialed them.

Q Didn't you just testify that you did not receive the disciplinary reports --

A No, I testified that I did receive some of the disciplinary reports in order to balance that with the particular log. They weren't supplied as a whole to me. They didn't have the record of some of the disciplinary reports.

Q Which disciplinary reports did you receive that are listed on Exhibit 8 for identification?

A They would not let me make a Xerox copy of that, so I could not verify it, sir.

Q Do you know of your own knowledge whether Sheriff Quinlan reviews the disciplinary reports?

A It was not indicated, sir.

Q In other words, you don't know?

A No, I do not, sir.

MR. MAROULIS: I object to the introduction of 8 in evidence, your Honor.

THE COURT: It may be received.

(Plaintiff's Exhibit 8 was received in evidence.)

THE COURT: On the reports of these incidents that you looked at, is there any notation that the Sheriff had looked at them or reviewed them?

THE WITNESS: No, sir.

THE COURT: There is no initial, no statement by the Sheriff?

THE WITNESS: No, sir, there was not.

MR. MAROULIS: Your Honor, if I may, another question.

VOIR DIRE EXAMINATION

BY MR. MAROULIS:

Q Mr. Giardina, do you know that the disciplinary reports are submitted to the Commissioner of Corrections, are you aware of that?

A Not to my knowledge, they have not been.

Moving on, on the same evening of the -- of 10/5/76, an individual, who I later identified as a Mr. Effron, was seen coming in and exiting the jail. I stopped him before he went through the particular -- through the door, through the control room door, and asked him -- I identified myself and asked him to identify himself.

And at that time he told me he was a Gateway volunteer, and I asked him again if he had logged in, as far as -- or had been searched, etc., and he said no, he had not.

I asked the guards why he had not been logged in, and they stated that, well, they knew him, and I said, 'I don't care if they knew him or not, he had not been searc number one, and that he had had easy access in and out while all the booking was taking place, which was a clear breach o a security hazard.

At that particular time I notified the log -- I guess this particular evening I -- I think it was pages 47 and 48, and Mr. Effron's name was not on those particular pages at that time. He had not signed in.

When I went in the next day, which was 10/6/76, and he had already left the facility, his name was in there. And he had left for the evening.

At that time I began to question in my own mind the logging patterns of the facility, as far as visitation.

On 9/22/76, I had taken copies of the log, the visiting log, and had looked at it -- and again, I am just testifying as an amateur -- much of the handwriting was similar for seven and eight individuals within the log. So I took a Xerox of the log as of 9/22/76, and found that there were -- for example, as of the date here, on 8/23/76, there are approximately 17 different names with the same handwriting. And-- again, I say allegedly from the same handwriting, because I am not an expert, but this again took

bslt 4 Giardina-direct

place on 8/13, which was previous to that, and again -- I don't know how these pages got juxtaposed, but there was an alteration in all of the logs that I could find, and I had initialed the pages, and I put "C.C." which means Correction Commission, with an asterisk, so that they could not be changed to verify these, and I went back to verify these again and I asked what had happened and the officers could give me no comment that particular time.

(Plaintiff's Exhibit 9 was marked for identification.)

BY MR. LEVIN:

Q Mr. Giardina, does Plaintiff's Exhibit 9 represent certain pages from the log in the control room which you had Xeroxed?

A That's correct.

Q Are you testifying that there were alterations made in the signatures of certain individuals?

A Yes, I do.

Q Can you tell me by reference to the page number or just counting from the front, which pages bear signatures that you believe to have been altered?

A It would be page number 37, which is the log book page --

Q Page 2 of the exhibit?

bslt 5 Giardina-direct

A Page 2 of the exhibit. It would be page 26 of the log, which is number 3 in the exhibit. The date on that is 8/23.

Page 20, 8/13, which would be page 5 on the exhibit.

Page 21, which is page 6 of the exhibit, has been altered, in my opinion.

Page 23, which is page 8 in the exhibit.

I couldn't testify to the other ones.

Q In what respect were these pages altered, in your opinion?

A Well, they were altered in two ways;

Number one, it would seem that the same individual signed other persons' names to the log; number two, that on one particular -- on certain days there were names that appeared that had not been there the day before.

Q So there are two aspects, one would be that signatures were very similar so that when they were entered, they appeared to have been entered by the same person?

A That's correct.

Q And there were additional signatures on a second viewing of the same page by you?

A Yes, that's correct.

Q Were any signatures apparently altered, that is, changed, from what they previously had been?

A Not to my knowledge, sir.

Q Is the original of that log book in the control room of the jail?

A Yes, it is.

Q By law, is it to remain there?

A Under Correctional mandate, yes.

Q Should we be able to find it there today?

A Yes, you can.

Q Do you know who made these Xeroxes that constitute Plaintiff's Exhibit 9 for identification?

A I don't remember, sir.

Q Did they represent to the best of your recollection the pages that you saw in the original log book?

A That's correct.

MR. LEVIN: Your Honor, subject to the Court's viewing the original of this book, if it can be made available, I move that this be received in evidence, Plaintiff's Exhibit 9.

THE COURT: Show it to Mr. Maroulis.

VOIR DIRE EXAMINATION

BY MR. MAROULIS:

Q Mr. Giardina, with regard to the recitation that

you made thatsome of the signatures appear to be made by the same person but bear different names, I call your attention to that, with regard to that, is there any requirement of the Commission of Corrections that each person who comes into the jail sign his own name?

A That's correct, yes, there is.

Q Is it your testimony that if you and I were to go into the county jail, that we must each sign our own name

A Yes. I require that of my staff as well.

Q Isn't the purpose of that log to make note of who enters the jail?

A That is one of the purposes, sir.

Q Can you point or assist in pointing out any authority that requires each of us, for example, to sign our own names as we enter the jail rather than having one of us sign both names?

A No, sir, I cannot give you the specific section of the law.

Q But you require that practice, is that correct?

A It is part of the mandates and directives of the Commission, yes. I cannot state to you specifically because I am not an attorney, what those sections of the law are.

Q I wasn't looking for something like that. I was

looking for some direction as to where we could find --

A It is within the Correctional law that identification and verification have to take place within a facility

Q As to the identification, that would be, for example, showing a driver's license?

A That could be possible, yes, sir.

Q Hypothetically, if you and I walked into the jail together, and each of us showed our driver's licenses, and our driver's licenses were checked and verified, is it your testimony that we would then both have to sign that log?

MR. LEVIN: I object to a hypothetical question. It might be appropriate to ask Mr. Giardina what the practice was at the jail on the days that he visited there with respect to signing this.

THE COURT: I agree.

Q As to the second part of your statement that on certain days it seemed thatthere were more signatures on a page than there were the last time you were there, for example, you stated something about August 13th --

A Yes.

Q -- did you obtain photocopies of the page on August 13th by which to compare that which is in Exhibit 9 for identification?

A Number one, I was not at the facility on August 13th. This was on a sheet of paper that was Xeroxed. I mentioned that date, because it appeared that on that date it was listed that there was alterations.

Number two, when I requested to Xerox the same papers that I had Xeroxed the day before, I was not allowed to Xerox those papers.

Q Wasn't it your testimony that in your judgment names had been added on pages 37, 26, 25, 21 and 23, which did not appear on the date that the page bears?

A I would have to look at those pages to state that, sir.

Q Page 2 of the Exhibit number 9, which is a photocopy of page 37 of the log?

A That's correct.

Q What date does that bear?

A On the Xerox copy, I cannot tell. It is cut off.

Q Page 3 of Exhibit number 9?

A Yes, sir.

Q Is that a photocopy of page 26?

A That's correct, sir. The date is 8/23. There are approximately -- there are 17 names that seem to be

written in the same handwriting.

Q Will you point out which names were added to page 3 of Exhibit number 9 that did not appear -- what was that, August 23rd, 1976?

A That's correct, sir.

No, I cannot say that.

Q As a matter of fact, isn't it fair to state that you cannot say that names were added after August 23, 1976?

A No, because I do not have the copies of that particular verification.

Q Is it fair to say that with regard to the entire of Exhibit number 9, that you cannot state that names were added after dates of the particular pages that you have before you?

A I can state that I observed that they were added but that I do not have the pages because I was not allowed to Xerox them.

Q On which pages were there additions, after the date which the page bears?

A Specifically, I cannot give those to you, sir, because I do not have them in front of me.

Q Are there any in Exhibit number 9?

A I cannot honestly testify to that, sir.

MR. MAROULIS: Your Honor, I object to the

admission of Exhibit number 9 in evidence as to -- in support of the statement that there were signatures added following the date that the page bears.

THE COURT: Let me take a look at it.

(Pause.)

MR. LEVIN: If I can just ask Mr. Giardina a couple of questions, I might be able to clarify the purpose for which I would offer the exhibit.

THE COURT: I am accepting the exhibit for purposes of indicating that someone other than the person who actually entered the jail signed the log on behalf of th person. It is received for that purpose and that purpose only.

(Plaintiffs' Exhibit 9 was received in evidence.)

MR. MAROULIS: For the record, I have no objection, your Honor, for the limited purpose for which your Honor has admitted Exhibit number 9.

MR. LEVIN: If Mr. Maroulis has nothing further on this exhibit, I would like to ask a few questions on this subject.

DIRECT EXAMINATION CONTINUED

BY MR. LEVIN:

Q Mr. Giardina, is it your testimony that on the

days you inspected the jail in September and October, you observed pages of the sign-in log in the control room, which on one day did not bear signatures, and on the next day bore signatures which you had not seen before?

A That is correct.

MR. MAROULIS: I object to that. I object on the basis of the best evidence rule. If there is such a circumstance that does exist, I would submit that the best way to support that would be to show the differences between the two writings.

MR. LEVIN: I am not going to be asking Mr. Giardina questions for the purpose of having him compare writings because the nature of his testimony, as I understand it, is that there is nothing to compare, that the only comparison which could be made would be in his recollection.

I am not asking him these questions in order to submit a document for admission into evidence. I want to understand what his experience was.

THE COURT: I understand that.

Q Mr. Giardina, were these entries that you are referring to, which did not exist on one day and which you saw on another day, relate to days on which you were in the institution?

A That's correct, sir.

MR. LEVIN: I have no further questions on this aspect of Mr. Giardina's testimony.

THE COURT: What else do you have, Mr. Giardina?

THE WITNESS: I believe that is it, your Honor.

THE COURT: All right. Mr. Maroulis.

CROSS EXAMINATION

BY MR. MAROULIS:

Q Mr. Giardina, did you base any portion of your report on the 43 interviews that were conducted at the jail?

A No. I'm just speaking specifically of what I observed, sir.

Q With regard to the chain of command, did you base any portion of your report on your interviews of Mr. Smith and Mr. Hess?

A No. The only part of that, sir, would be their complaints concerning the chain of command.

Q With regard to contraband being available in the jail, what contraband did you see?

A The only thing that I specifically saw was a water pipe, marijuana pipe, that was in the jail.

THE COURT: Where was it, on the tier?

THE WITNESS: It was in the cell of a particular inmate, your Honor.

Q Is that a prohibited item under the Commission

of Corrections rules?

A Yes,it is.

Q Did you make a search of the records of the Commission of Corrections to determine whether or not Sheriff Quinlan sent copies of his disciplinary reports to the Commission?

A Yes, I did, sir.

Q When was that?

A The first time I did this is when Sheriff Quinlan had stated that he had sent several copies of diffe. records, which would have been right after my first visit.

I believe I left on Friday and I checked, went into the office on Saturday, and there are five boxes of material on Dutchess County, and I went through them on Saturday and then again on Monday, and I couldn't find those records, sir.

Q Is it your testimony then that you could not find those records?

A That is true, sir.

Q Would it be fair to state that although you endeavored to find those records in the Commission, and were unable to find them, that they may be there?

A No, sir.

MR. MAROULIS: I have nothing further.

bslt 15 Giardina-redirect

MR. LEVIN: I have a few questions.

REDIRECT EXAMINATION

BY MR. LEVIN:

Q Mr. Giardina, in the course of your inspections in September and October, did you have occasion to examine the doors, the security doors which separate the tiers from the hallways?

A Some of them.

Q Did you make any observation with respect to the condition of the locks on those doors?

A Only one in particular.

Q Can you tell the Court about that?

A Yes.

In fact, it is the door -- I don't have the -- of the picture that is right outside of the kitchen area, there is a door that -- if I can see the pictures, I can tell you.

(Pause.)

Q Here they are, Mr. Giardina.

A The only specific one that I can state that looked bad, was just -- this particular door, which is under Exhibit 2, and listed as picture 11, there had been some type of alteration on the lock itself. There were a lot of scratches, etc., and when I yanked at the door, it was very

loose, in other words, the locking mechanism itself, and again, I am not a very strong person, I don't think, and with a very good shove, it seemed like that could have snapped, and I brought that to the attention of the guard.

Q You mean snapped open?

A Yes. I didn't try to snap it open, but I mentioned this to the officer in charge.

Q Were you made aware by anyone in the jail staff or administration of door locks to security areas which would not open?

A Yes. There was an indication from several officers that they didn't have access or keys to certain areas, but they didn't state that the doors would not open, no.

Q To your knowledge, Mr. Giardina, is there any procedure at the Dutchess County Jail for providing close supervision of women inmates who are suicidal or potentially harmful to other individuals?

A I couldn't testify to that, no. To my knoweldge, no.

MR. LEVIN: I have no further questions.

THE COURT: Mr. Maroulis?

MR. MAROULIS: Nothing further, your Honor.

THE COURT: You may step down. We will take

bslt 17

a short recess.

(Witness excused.)

(Recess.)

MR.LEVIN: Your Honor, Mr. Maroulis informs me that he has no witnesses to put on, so I will proceed to make some comments.

I received by hand a copy of the Sheriff's revised plan late yesterday afternoon and I spent some time going over it last night.

I would be pleased to submit a written response or reaction to the plan, but I think there are certain things which should be discussed today, and perhaps decided.

It is clear to me that this plan is no different in substance from the prior plan. It has the same defects. It doesn't really say whether things have been done, althoug the word "done" is used very frequently.

The Sheriff, whose personal knowledge of these things is not at all apparent, often states that he has directed that certain things be done. Many of the exhibits bear dates that are just within a few days of this hearing. Some of these things are only indications of intention.

With respect to the apparent efforts to get things moving on the appropriations front, many of the documents which are supposed to reflect items that have been

bslt 18

ordered are not clearly that, and to the extent that they have been ordered, it is not clear that these things will be produced by the County because it is not clear that the Sheriff puts things out to bid, which he is supposed to put out to bid, and the attempts, at least as far as I can tell, are sometimes more apparent than real.

From what I have been able to determine from the legislature, there have been no specific approaches to the legislature, except with respect to the hiring of certain medical personnel, which is necessary. There hasn't been that sitting down, rolling up the sleeves, getting to the basics of what this jail needs.

After $20,000 was spent on a report by Mr. Cohen, which came out in late 1975, prior to the first contempt hearing, we now have the County and the Sheriff agreeing to hire an architect to talk again about what should be done.

That is not necessarily bad, but we haven't gotten to the urgent, pressing problems that this jail has to have solved right now, such as who is going to clean the kitchen.

I inspected the logs on the evening of the 8th of October, with Dr. Redmond, and we could not believe that the Sheriff's name did not appear any where as far back as we went.

bslt 19

Lt. Traver assisted us in the search. He couldn't find the Sheriff's name. Even the exhibit, which is attached to this revised plan, which talks about a schedule of supervisory visits, talks about a schedule that is to go into effect. It does not say what schedule has been until now.

There are documents in this revised plan which are contradictory. The rules and regulations which the plan says are given to inmates, are dated in Julyof 1976. They bear all of the vices that we have pointed out with respect to those rules before,and they contradict certain represen-stations which have been made to this Court.

One part of the rule says that the Sheriff shall determine who can receive letters from inmates other than family and attorneys and government officials.

Another part says that an inmate can correspond with anyone.

These regulations still say that dental care is limited to emergencies, notwithstanding the Sheriff's informing the Court that the dentist has been given in effect a blank check to provide what care he needs.

I have no doubt that the Sheriff has been told to do that -- that the dentist has been told to do that, but what good is it if the inmates don't know? I could go on and

ch.

The blotters, which are in the files in the control room, relating to the admission and treatment and handling of Claire Scovel, in the week of October 4, 1976, are evidence on their face that there are no procedures, and that this woman was handled in a haphazard manner at best.

There is more evidence with repsect to Ms. Scoval that could be brought before the Court, it is however, a matter which is being taken up on the civil side by her family's attorney and by the District Attorney.

But it is, to say the least, a dramatic example of how a person, who does not belong in a jail in the first place, can just die of neglect.

Without placing blame in any one place, it is fair to say that there was no procedure for handling this woman, and driving while intoxicated is hardly so rare a crime that a procedure cannot be set up.

The Sheriff's continuing contempt of the July 30, 1973 order and of this Court's order of July 9, 1976, is so evident from the testimony given here today, and from the letters that have been sent to the Court by Dr. Redmond, that I think the record is ample now for the Court to rule that the Sheriff's contempt is continuing, it is wilful and it

bslt 21

simply cannot be tolerated any longer.

In our motion for further contempt sanctions on October 16, 1976, I asked that the Judge-- that your Honor consider the imposition of harsher civil contempt sanctions, namely, the imposition of a $50 a day fine, which your Honor mentioned in your June opinion, and possibly the weekend incarceration of the Sheriff.

I make these suggestions because they would in effect put more pressure on the man to do what he is supposed to do. They are acceptable civil contempt sanctions from toher cases and I think the Court would be justified in imposing them.

Frankly, I am very pessimistic that even with the imposition of those sanctions, that we would get compliance with the order of this Court. If what has happened in the last three and a half years has been insufficient to do the job with respect to this man, I do not know what is sufficient. Therefore, while I make the motion for those sanctions, and I ask the Court to impose them, I recommend that the Court consider, after proper briefing, the appointment of an administrator to take charge of the Dutchess County Jail in lieu of a sheriff, and to run the jail for such interim period as may be necessary to establish procedures which will guarantee the welfare of the inmates and

to work with the County Legislature as the sheriff should have done for all these years, to put into place both urgent and long-term plans for the rehabilitation of both the administration and the physical structure.

Before today's hearing, I have approached various parties with respect to this proposal myself, that the Court wants to intervene as little as possible in local affairs of this County.

The United States Court of Appeals for the Second Circuit has made it clear inthe case involving the Tombs that where there is -- where it is not viable to close a jail, it is desirable to take burdensome, expensive, even cumbersome steps to guarantee the constitutional right of people in jails.

I submit that closing this jail is not a viable alternative because it would take a relatively small population and scatter it to surrounding institutions which are not really that close, and which are not equipped themselves to handle inmates from other institutions for long periods of time. It would take these men and women away from their families, away from their counsel, away from their probation officers and away from all those minimal things that make life in this lawless jail minimally tolerable for them as it is.

If the jail were closed we would be trading constitutional violations of one sort, I'm sure, for constitutional violations of another, and we have been able to see that very vividly in New York City, when the Tombs were closed and inmates were sent to Rikers Island.

The difference is here that the jail is in not so grave condition physically as it need be closed as perhaps the Tombs had to be in order to effect some of the minimum, urgent renovations that have to be made.

So I think that cumbersome, expensive, remedies would be justified here, but I believe that the appointment of an administrator would not be that kind of a remedy. In fact, it would be the most efficient, least expensive and least interfering type remedy this Court could find for this case.

I say that based upon conversations with members of the legislatre and with the County Attorney, who have made no commitment as to what the county would do should the Court appoint an administrator, but who have at least acted favorably to the idea of considering this, perhaps with a view to making the administrator an interim person, during whose tenure the county could decide upon some permanent administrative set-up that could be put in in place -- in lieu of the Sheriff.

I would hope that the county, if it becomes a party to this case, of it does not, would agree in principal that whoever the Court appointed would be put on a reasonable salary by the county during such time as he was doing his job, and that he would be regarded by the county, and that the county would pass whatever legislation was necessary to give him the authority to act in the Sheriff's capacity with respect to the jail in all ways necessary.

He could negotiate with the county in good faith, he could negotiate with the state agencies, he could report back to this Court, he could develop a rapport with the guards of this jail, where there is none right now, he could do all the things that this man has not done, and I think with an interim appointment of six months, subject to renewal by the Court, and subject to constant scrutiny by the Court, we could get this jail on the road to being not only a decent institution, but a model institution as well.

I have no fixed view in this regard. But on behalf of the plaintiffs, I would be firmly opposed to any pleasures which would rely upon the Sheriff's good faith because it is simply not evidenced by anything he has said or done.

I could go on and give more examples and make a further plea, your Honor has heard it before, it is in the

bslt 25

papers, and I leave it to the Court to make its decision and to require such briefing as we can offer.

With respect to the law, we have been preparing a memorandum of law which really updates the memorandum we submitted on March 18, 1976, as part of our post contempt hearing papers. The state of the law on receivership has no changed substantially since then, though we will review it, hopefully in the context of whatever factual approaches the Court indicates it might prefer here.

I hope that a receiver in the classic sense will not be necessary; that throwing the county aside, taking over day to day administration of the jail by the Court won't be necessary. Much less is required, and that is why I do not use the word receiver, I use the word administrator.

I hope in the discussion that ensues here we can come to some closer agreement as to what might be feasible, without the Court issuing orders as to other parties, such as the county, should the county enter the case.

THE COURT: The one problem -- one of the problems I have with an administrator-receiver, is what protection does that individual have as the administrator of the county jail? I am thinking about claims being made against him as the administrator. Whereas the Sheriff as a

bslt 26

constitutional officer has certain ability in protections, he would not, I don't believe.

MR. LEVIN: I don't know the answer. The answer might include the necessity of appealing to the State Legislature or to the Governor for some relief. It may be that the legal mechanics are so complicated as to make it impossible.

THE COURT: Then again, the question is who.

MR. LEVIN: The "who" doesn't bother me as much as the "how." The "how," I think, is something we struggled through and it might take a long time. The "who" I have solicited suggestions with respect to. It may take qualifications that ask fora person we are not going to find it easy to locate, but there may be even people in Dutchess County who will be able to do this job.

It does not take extraordinary talent or extraordinary experience. I think it takes application and hard work, and reference to the laws and to the orders of this Court.

This person will not be lacking in people to help him.

I think that there is a good faith willingness in the county to do what is necessary and once the people of the county realize that doing it the right way is not goin

bslt 27

to be the most expensive way, I think we will have tremendous broad base support for such a person.

If all we have to do is to get down to the legal mechanics, that is a problem that I would be delighted to face. I just think that the first thing is to determine that the Sheriff cannot be permitted to run this institution in this time forward because his regime simply poses too great a risk to the people who live there.

THE COURT: Mr. Maroulis?

MR. MAROULIS: Your Honor, when we last met on September 8th, your Honor gave some specific directives to the Sheriff. As a result of those directives, the Sheriff has appeared before the County Legislature, and the Committee of the County Legislature, seeking funds to implement certain resolutions that were up to that point stalled before the legislature.

It is my understanding that during the summer months, during the month of July, that the Sheriff spoke with the County executive, outlined the problem, and certain resolutions were drafted by the County Attorney's office to update the physical plant and to add additional employees to the jail.

Those resolutions had not been submitted to the County Legislature for action as of September 8th when we

bslt 28

were here.

On September 13th, the Sheriff appeared before the County Legislature, and there is a transcript of that hearing attached to Mr. Levin's papers. I refer to that transcript, your Honor, in that I think it demonstrates one of the problems that has been with us throughout this case, and that is that the legislature itself seemed unwilling to move forward while there was no court-approved plan before them.

It was related in that meeting that the County Attorney had directed the County Legislature, that they shou not act until there was a plan that had been approved.

On behalf of the Sheriff, I submit that this puts us in a cir[illegible]ar position in that the Sheriff had certain resolutions before the Legislature, but they didn't want to approve the resolutions or pass on them until there was approval of the plan.

I indicated to the Court that I would submit a plan as soon as I could by reason of illness, and I am frank quite sorry about that, but there was very little that I personally could do to get that plan moving.

I point to that by reason of the fact that Mr. Levin indicates that a good deal of the action that was taken just precedes the actual submission of the plan.

bslt 29

I believe that is accounted for by reason of my state of health and --

THE COURT: I don't accept that, Mr. Maroulis. I do not accept it for the reason that this constitutional officer had the responsibility, not his counsel.

Understand me, I sympathize with your attempt to exonerate him, but he had a constitutional responsibility, which he has avoided, and he evaded, and even unto this day he does the same thing by trying to put it off on someone else.

MR. MAROULIS: I did not intend, to try and substitute myself in that position --

THE COURT: I hold you blameless.

MR. MAROULIS: I wanted the Court to understand the circumstances for some of these late dates that appear in the revised plan.

Addressing myself to it, however, I have had the benefit of the input from Dr. Redmond, which has been considerable and most helpful. As a result, the plan contains provisions for two committees, which the Sheriff has indicated that he would follow the recommendations of.

He has implemented a number of the --

THE COURT: We do not need any committees to get a bucket of hot water and flush out the kitchen floor.

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bslt 30

This is ridiculous.

Basically here, I'm sure that some where along the line the county is going to take hold of this, although they have been reluctant and dragging too, but basically, the things that are wrong here are wrong with the administrative personnel in the jail.

There is no chain of command. There are no clear lines along which these people can operate, and as a result of that, everything appears to be at sixes and sevens. There should be no problem, for instance, in seeing that the cells are cleaned on a daily basis and swabbed down every week on a regular basis. This is nonsense and it is unbelievable to me that you could have a situation in this day and age that goes back to the 17th Century jails with bugs all over the place.

MR. MAROULIS: There is very little that I can say with regard to the condition of the kitchen and the infestation that was reported by Dr. Redmond. I can say but this:

There has been movement in that area to upgrade the kitchen. They seem like relatively minor things, but it is all of these minor things that have been the problems --

THE COURT: You do not need movement here. What you need is a tornado. You know, I have been listening abou

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bslt 31

movement since last February, and so far as I can see, there has been none.

MR. MAROULIS: I would like to represent to the Court that I have included in the plan that was submitted to the Court a letter from an additional exterminator that that problem has been attended to with regard to the cockroaches. I share the Court's view with regard to the infestation.

The Sheriff has gone beyond the exterminator that is provided by the county, and another one was called in to address himself to that particular problem.

I would like to point out to the Court, however, that this amended plan contains documentation to indicate that items have in fact been ordered which should have been ordered, and they are coming.

There has been a recognition by the Sheriff that he must act. Your Honor's admonishment to him on September 8th was very clear to him and clearly understood. He knew that he had to move. He acted on it. He has requested funds

I submit, your Honor, he is caught in a position with the County Legislature where, unless they are made parties to this lawsuit, that there will be foot dragging there because it does suit the purpose of some of the legislators to let the Sheriff have his problem, and I think that once the problem becomes their problem, also,

that there will be a good deal of cooperation in trying to resolve the conditions that remain at the County Jail.

Thank you.

THE COURT: Mr. Benson?

MR. BENSON: May I be heard, your Honor?

THE COURT: Yes.

MR. BENSON: There is a bit of a concensus, I take it, that the legislature of Dutchess County has been guilty of a certain amount of what your Honor described as foot dragging.

I ask only that the Court inquire completely into the facts behind any delays on the part of the legislature to fund the costs of improvements of the Dutchess County Jail. The failure of which have been given credit for the disreputable conditions which are found there.

As your Honor has pointed out even more recently in his comments to Mr. Maroulis, mere funding is not enough. Nor has there been any remiss necessary on the part of our legislature, especially in recent times, to take the serrative measure necessary to fund those matters which can be cured only with money.

I invite your Honor's attention to three items in Exhibit FF, which is attached to the Sheriff's papers. These are actions of the Dutchess County Legislature.

Resolution authorizing the retention of an architect to undertake a cost study for the improvements at the jail.

I know from my own personal knowledge that the contract has been let, and that there is a 30-day period of performance within that contract for the architect to produce his plan.

A 1976 resolution adopted in September for the addition of six guards and one matron at the Dutchess County Jail.

THE COURT: May I address myself to that for a moment, please?

MR. BENSON: yes.

THE COURT: It seems to me that one of the larger items over the years in connection with improvements in these local jails, will be the hiring of additional personnel, and none, to my knowledge, -- and I have at least one other experience in this connection -- none has thought of the possibility of closed circuit TV which initially may cost more, but over the period of years, will cost less than having guards.

MR. BENSON: I will bear your Honor's suggestion in mind and convey it to the Public Safety Committee of the Legislature.

bslt 34

I have in my hand a resolution referring to improvements and the addition of a physician and a dentist at the Dutchess County Jail, adopted by the Legislature and signed by the County Executive on October 4, 1976.

In addition, I hold a resolution, which has not yet been acted upon, for the addition of -- for the payment of a matron and the provision of the funds therefor from the County Contingency Fund.

The majority leader of the Legislature sent to me, under date of October 20, 1976, a proposal for a local law creating a Department of Corrections, transferring from the Sheriff's Department to the Department of Corrections the charge of and responsibility for the maintenance and operation of the Dutchess County Jail.

I invite your Honor's attention to the provisions of the New York State Correction law and to the County law, Section 217 of the County Law, requires that the County maintain a jail andthe current provisions of the Corrections law require that the Sheriff run it.

We must take up and face a legal problem where we may, by local law -- and I think that we may under the provisions of the Municipal Home Rule Law -- superseded the provisions of the Corrections law of the State of New York and appoint a Commissioner of Corrections pursuant to local

law, superseding the statutory duty of the Sheriff.

It must be remembered that the duty of the Sherifff to run the jail is a statutory one, and not a constitutional one.

Your Honor, with respect to the order to show cause, why, the County of Dutchess and Edward C. Schuler, individually, and as County Executive, and all of the members of the County Legislature be joined as defendants in this action, I wish to oppose the motion and with complete respect for this Court, to say that the reasons for the joinder have not been set forth in any papers attached to the order to show cause, and I must surmise from facts unstated, that in order to fashion complete relief --

THE COURT: I feel that you are necessary parties. In order to fashion any relief, that is going to be -- to in some way establish these minimal constitutional rights for these individuals in the jail, you are a party.

MR. BENSON: May I suggest to your Honor that our legislature has taken affirmative steps, and our County Executive has taken affirmative steps, which I have cited to your Honor in the last few moments, of its own initiative to correct the conditions which have been called attention to in these proceedings, and that the joinder of these people as defendants is not necessary to the fashioning of relief.

bslt 36

I respectfully urge that view on the Court.

THE COURT: All right.

Mr. Levin, would you like to reply?

MR. LEVIN: Your Honor, plaintiffs join in the Court's motion for the reasons stated. I have nothing furthe on that.

THE COURT: Mr. Maroulis, you have also joined in my motion.

MR. MAROULIS: Yes, your Honor, I have.

THE COURT: Mr. Benson.

MR. BENSON: May I simply say, in addition, your Honor, that Mr. Levin, I think, has already stated to this Court many of the things which I would have stated had I spoken before him; that I believe that the appointment of an administrator on an interim basis, who can be selected with the help and guidance and the counsel of the Commission of Corrections of the State of New York, who I believe are in the best position to know what people are qualified to handle that job, would be the best interim solution.

To use Mr. Levin's language, that the mechanics for doing so be fashioned by this Court after suitable briefing. There are legal issues which are encountered here and which must be overcome before such employment can be

bslt 37

made, and to that extent, I join in Mr. Levin's prayer for relief.

MR. LEVIN: Your Honor, it occurs to me as we talk about those mechanical difficulties that whatever disposition the Court may make of this motion, it might also be wise for Mr. Benson and myself to get together and determine whether it would not be appropriate to make some application within the State.

In light of the situation which prevails for the jail, your Honor -- I would only want to do that with the Court's knowledge.

THE COURT: What are you talking about?

MR. LEVIN: Specifically, I am referring to Article 1313 of the New York State Constitution, which relates to the Sheriff's tenure in office, and while it would be extreme, perhaps, in certain circumstances to appeal for the Governor to take action with respect to this situation, I think that on the state of the record now, and given the legal difficulties which we may encounter in the court acting alone, it might be appropriate to move that record before the Governor to see whether the State will take any action before the Court is forced to do something by way of the appointment of a receiver.

I don't want that suggestion with the idea that

bslt 38

this should take a long time. I think we should brief the matters before the Court and act before the State, simultaneously, but I mention it because I think it is the alternative. This is, after all, an institution which is within the state, the Sheriff is a constitutional officer, and any ultimate solution that would take the control of the jail out of the hands of the Sheriff would have to be proved by the State Legislature.

I just offer that as a suggested way of proceedi parallel to the briefing in this court.

THE COURT: The problems in the jail and the problems of the inmates transcend all political lines, as fa as I am concerned, and there should be no question within the County Legislature as to who did this, that and the othe thing in the past; that has nothing to do with the price of eggs today.

I noted, incidentally, Mr. Benson, that there does not appear to be any provision with respect to the instructions to the architect as to what we would call a contact visitation center. There is a whole list of things that he's to look into, but no contact visitation, as I saw it. Unless it falls under another category, but I didn't see it at all.

There are certain things which it seems to me

bslt 39

could be done very simply and very quickly in the jail now without affecting an overall plan, and it is with respect to these things that I want jurisdiction over the County because I do not think I can do those things without having jurisdiction over the County.

There is certain electrical wiring which is running loose which should be taken care of. It has not been taken care of, so far as I know. In the Sullivan County Jail, within two weeks, we had television sets installed, encased in conduit, without any problems. We had no Mickey Mouse operation, and here we have a Mickey Mouse operation.

So that I am going to join the County and the Board and the County Executive as parties to this action, and the purpose for it is of course to have complete control of the situation to see that things are done.

There have been studies issued -- there have been studies made before with respect to this jail, and it can go on like this forever. I think something has to be done, and something of possibly a very vital nature in a legal sense to get this on the road.

I do not think March 1st, with respect to many of these items, is a realistic date. I think it may be it is unrealistic with respect to some of the renovations which are suggested, because I don't think you will get them

bslt 40

done within that time, but there are many other things which can be done which could be done well before March 1st.

I will reserve on the other motions, gentlemen, until I get your memorandum.

If any of the parties wish to meet with me for purposes of setting up what would be a realistic plan here, I will be happy to meet with them later in the afternoon, because I have a long securities trial on, to see whether we can work something out.

MR. BENSON: I will be very happy to accept that offer, your Honor, at whatever date your Honor would find convenient.

THE COURT: Mr. Levin, Mr. Maroulis?

MR. LEVIN: We will be there, whenever.

MR. MAROULIS: I'll be there.

Your Honor, with regard to the relief that was requested by Mr. Benson and Mr. Levin, the relief as to the appointment of an administrator, I would like the record to reflect that the Sheriff, too, has suggested such relief be granted in the event that the Court finds the present amended plan unsatisfactory.

The suggestion made by the Sheriff to the Court is along the lines of the creation of a Commission of Corrections and the appointment of an administrator in the

interim.

THE COURT: There again, you know, the appointment of a Commission of Corrections -- are we going to have a lot of problems as to who shall be what?

What are the qualifications of those persons? I'm talking about this from the standpoint of the County Legislature, and I was once the County Attorney for the County of Queens, so I know what goes on in these meetings, and, again, how long is it going to take to do this, what with all of the political backroom fighting that goes on?

I don't really think that that is a permanent solution. Of course, I could, with a stroke of the pen, close that institution today. I am not ready to do that. I am ready to spend my time at meetings like this, for two reasons:

First, out of concern for the relatives of the persons who are incarcerated there; secondly, out of concern for the taxpayer in the County of Dutchess, because it is going to cost them a lot more to have those people boarded outside somewhere then it is to have them right in Dutchess County.

Plus the fact that the Sheriff will probably ask for six more cars or two more buses to transport these people back and forth whenever your County Court gets ready to try

bslt 42

them. So that in the long run, it is not only more humane, but it is also more economical to try and work out a solution, but we have got to do it quickly now.

We have had at least three deaths, two suicides and this lady, and I have correspondence to the effect that there was another death involved, which, it is claimed and alleged, was due to neglect, so that I do not know how long it can go on without my saying finally, "I give up, I will close it," and throw up my hands.

This will not be a long process. I don't have to go through all the nonsense that the Corrections Commission goes through in order to close the place.

You can go up to the Court of Appeals.

MR. LEVIN: Your Honor, with respect to the remarks you just made, and referring to the remarks I made about the Constitution of the State of New York, if I could ask for some guidance, in light of the urgency of the problem and in my view, the unlikely solution being imminent with respect to the Sheriff, would the Court object, or do you have any view if I were to make some application to the Governor with respect to this jail and this Sheriff?

THE COURT: I have no objection, Mr. Levin; you are represeting a class of clients, and as far as I am concerned, you can make your application any day in the week.

MR. LEVIN: Thank you.

THE COURT: I have no objection whatsoever.

MR. LEVIN: Thank you.

THE COURT: I have, however, told the Corrections Commission that I will not at this point close the jail. I want you to know that.

MR. LEVIN: It is with a view to avoiding the closing of the jail that I would apply to the Governor. That would be specifically to remove the Sheriff from office.

Unfortunately, everyone's alternative in this case are very narrowly defined, and unfortunately, I am looking at the possibility of having to go to another forum to get another kind of relief.

THE COURT: All right, gentlemen, thank you very much. Thank you ladies and gentlemen.

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WITNESS INDEX

Name	Direct	Cross	Redirect	Recross
Steven Redmond	3	12		
James A. Giardi	16			

EXHIBIT INDEX

Plaintiff in Evidence		Page
1 through 7	Documents.	41
8	Document.	45
9	Document for identification.	48
	Received in evidence.	55

LETTER FROM JACK P. LEVIN TO PETER L. MAROULIS DATED DECEMBER 20, 1976

1 CHASE MANHATTAN PLAZA
NEW YORK, N.Y. 10005

December 20, 1976

Re: Lasky, et al. v.
Quinlan, et al.,
73 Civ. 1666 (HFW)

Peter L. Maroulis, Esq.
104 Hooker Avenue
Poughkeepsie, New York 12601

Dear Peter:

Enclosed is a conformed copy of the judgment entered in the above matter on December 13, 1976, awarding attorney's fees and disbursements.

If you will forward to me a form of satisfaction of judgment satisfactory to you, I will let you know what changes, if any, I might require, so that I can provide you with a signed satisfaction of judgment upon receiving the full amount awarded by the Court.

I do expect to be paid promptly, and I would appreciate your letting me know if the Sheriff intends otherwise so that I can take the steps necessary to collect the judgment.

Thank you and my very best wishes to you and your family for a Merry Christmas and a happy and healthy new year.

Yours sincerely,

Jack P. Levin

Enclosure

RECEIVED
DEC 22 1976
PETER L. MAROULIS

JUDGMENT OF WERKER, U.S.D.J. ENTERED DECEMBER 13, 1976

299a

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
FILED
DEC 10 1976
S.D. of N.Y.

RAYMOND G. LASKY, NICHOLS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, and PRE-TRIAL DETAINEES,	
Plaintiffs,	73 Civ. 1666 (HFW)
-against-	
SHERIFF LAWRENCE QUINLAN, SERGEANT FARMER, JAILERS BOYCE, A. SMITH, CALLUIAN,	JUDGMENT
Defendants.	#77,100

This Court having adjudged the defendant Sheriff Lawrence Quinlan to be in civil contempt of the Court's Order of July 30, 1973 in an order filed July 9, 1976 and this Court having awarded fees and expenses for the period August 1, 1973 to July 19, 1976 to Jack P. Levin, Esq., plaintiffs' attorney of record, in a memorandum decision filed November 24, 1976, it is hereby

ORDERED AND ADJUDGED that Jack P. Levin, Esq., recover from defendant Sheriff Lawrence Quinlan attorney's fees in the amount of $35,000 and disbursements in the amount of $9,573.48 or $44,573.48 in the aggregate for the period August 1, 1973 to July 19, 1976.

Dated: New York, New York
December 6, 1976

S/HENRY F. WERKER

JUDGMENT ENTERED - 12/13/76

S/RAYMOND F. BURGHARDT

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

RECEIVED IN CHAMBERS
OF JUDGE HENRY F. WERKER
DEC 22 1976

- -x

RAYMOND G. LASKY, NICHOLS ZACHARY, HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, AND THE PRE-TRIAL DETAINEES,

Plaintiffs,

-against-

SHERIFF LAWRENCE QUINLAN, SERGEANT FARMER, JAILERS BOYCE, A. SMITH, CALLUIAN, THE COUNTY OF DUTCHESS, EDWARD C. SCHUELER, Individually And As the County Executive Of Dutchess County, STANLEY T. WARYAS, LOUIS FOERSCHLER, PAUL E. PFUETZE, JEAN C. MURPHY, LOUIS A. DEBIASE, ROBERT ROBAR, JOSEPH V. POILLUCCI, JOHN ARMSTRONG, G. DONALD FINNAN, JUDITH BLEAKLEY, ROCCO T. DIGILIO, MARCO CAVIGLIA, ARNOLD L. BARATTA, ROSALIE HODAS, JACK I. DEXTER, CHARLES MILLER, GLENN E. WARREN, CLIFFORD S. MCMULLEN, DOUGLAS A. MCHOUL, ROBERT HORTON, DANIEL J. HANNIGAN, JOSEPH J. LOMBARDI, GORDON WRIGHT, KENNETH UTTER, RICHARD H. WYMAN, MARGARET G. FETTES, RALPH VINCHIARELLO, WILLIAM E. BARTLETT, CLYDE R. CHASE, LUCILLE P. PATTISON, ASHEIGH M. LOSEE AND CALVIN R. SMITH, Each Individually And As Members of The Dutchess County Legislature,

Defendants

- -x

U.S. DISTRICT COURT
FILED
DEC 29 1976
S. D. OF N. Y.

73 Civ. 1666 (HFW)

ORDER

The Court having heard counsel for the parties to this action on November 11, 1976 and the Court having interviewed the candidate proposed for the position of administrator of the Dutchess County Jail, it is hereby

ORDERED, that JOHN J. LISSNER, of 3362 Curry Street, Yorktown Heights, Westchester County, New York be, and he hereby is appointed Administrator of the Dutchess

County Jail, Poughkeepsie, New York, to serve in said position from the 1st day of January, 1977 until the further order of this Court, and it is further

ORDERED, that the County of Dutchess pay to said JOHN J. LISSNER as compensation for his services a salary computed at the annual rate of Twenty-Two Thousand Five Hundred ($22,500) Dollars, and it is further

ORDERED, that said JOHN J. LISSNER, as such Warden-Administrator, shall be accountable to and shall report to this Court for all matters involving the administration of said Dutchess County Jail, including, but not necessarily limited to:

> Day-to-day administration, hiring and firing of personnel, submission and negotiation of requests to the County for appropriations, preparation of a budget, receipt and disbursement of funds, communication with County and State agencies, and planning for administrative and structural rehabilitation of the Jail;

and it is further

ORDERED, that said JOHN J. LISSNER, as such Warden-Administrator, shall be accountable to this Court for:

1. The care, custody and transportation of any person committed to the charge of the Sheriff of Dutchess County;

2. The maintenance of the Dutchess County Jail;

3. The development and implementation of correctional programs and services;

4. The recruitment, appointment and training of guards, office and maintenance personnel and other employees within the Jail;

5. The coordination of correctional programs and services with other county officers and departments and various community agencies;

and it is further

ORDERED, that defendant Dutchess County Legislature, having passed a resolution at its November 18, 1976 meeting for the establishment of a county department to assume the Sheriff's legal authority over the Jail, will also bring to a prompt vote a resolution to memorialize the New York State Legislature for authority to establish a county commission to assume the Sheriff's legal authority over the Jail, and it is further

ORDERED, that in the event that legislative or other approval is not granted for the establishment of a county department or a county commission with respect to the Jail, the County defendants will diligently pursue every reasonable alternative for the creation of a permanent administrative structure for the Jail which would relieve the Sheriff of legal authority over the Jail, and it is further

ORDERED, that the County shall complete all physical renovation at the Jail by March 1, 1977 as now projected in the October 20, 1976 letter to the Court from the Chairman of the Public Safety Committee of defendant Dutchess County Legislature, or by such other date as the Court shall allow, and it is further

ORDERED, that the Court will review all reports of architects and others submitting plans or proposals for the structural or administrative rehabilitation of the Jail, and that all plans for structural or administrative changes at the Jail shall conform to current legal standards relating to the rights of the inmates, as the same shall be judicially determined or established by other applicable law, and it is further

ORDERED, that the Court will retain jurisdiction of this action.

Dated: December 22, 1976
New York, New York

Henry F. Werker
U.S.D.J.

A 202 Affidavit of Personal Service of Papers

LUTZ APPELLATE PRINTERS, INC.

COURT OF APPEALS
SECOND CIRCUIT

RAYMOND G. LASKY, LNICHOLS ZACHARY HAROLD HOWARD, CLAYTON FISHBURN, RICHARD HARLAND, AND THE PRE_TRIAL DETAINEES,

Plaintiffs-Appellees,

against

SHERIFF LAWRENCE QUINLAN,

Defendant-Appellant.

Index No.

Affidavit of Personal Service

STATE OF NEW YORK, COUNTY OF *ss.:*

I, Reuben A. Shearer, *being duly sworn, depose and say that deponent is not a party to the action, is over 18 years of age and resides at* 211 West 144th Street, New York, New York 10030.

That on the **18th** *day of* **May,** *19***77** *at* **One Chase Manhattan Plaza New York, NY**

deponent served the annexed **Appendix** *upon* **Davis Polk Wardell, Esqs.**

the *in this action by delivering a true copy thereof to said individual personally. Deponent knew the person so served to be the person mentioned and described in said papers as the* *herein,*

Sworn to before me, this **18th** *day of* **May,** *19* **77**

Robert T. Brin

ROBERT T. BRIN
NOTARY PUBLIC, State of New York
No. 31 0418950
Qualified in New York County
Commission Expires March 30, 1979

Reuben A. Shearer

Reuben A. Shearer

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